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Federal Register
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–55–AD; Amendment 39–13526; AD 2004–05–31]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Trent 700 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Rolls-Royce plc (RR) Trent 700 series turbofan engines. This AD requires revising the Time Limits Manual for RR RB211 Trent 700 series turbofan engines. These revisions include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This AD results from the need to require enhanced inspection of selected critical life-limited parts of RR Trent 700 series turbofan engines. We are issuing this AD to prevent failure of critical life-limited rotating engine parts, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective March 29, 2004.

We must receive any comments on this AD by May 11, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- By mail: The Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–55–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov*

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A recent FAA study analyzing 15 years of accident data for transport category airplanes identified several root causes for a failure mode that can result in serious safety hazards to transport category airplanes. This study identified uncontained failure of critical life-limited rotating engine parts as the leading engine-related safety hazard to airplanes. Uncontained engine failures have resulted from undetected cracks in rotating parts that started and grew to failure. Cracks can start from causes such as unintended excessive stress from the original design, or they may start from stresses induced from material flaws, handling, or damage from machining operations. The failure of a rotating part can present a significant safety hazard to the airplane by release of high-energy fragments that could injure passengers or crew by penetration of the cabin, damage flight control surfaces, sever flammable fluid lines, or otherwise compromise the airworthiness of the airplane.

Based on these findings, the FAA, with the concurrence of the Civil Aviation Authority (CAA), which is the Airworthiness Authority for the United Kingdom (U.K.), has developed an intervention strategy to significantly reduce uncontained engine failures. This intervention strategy was developed after consultation with industry and will be used as a model for future initiatives. The intervention strategy is to conduct enhanced, nondestructive inspections of rotating parts, which could most likely result in a safety hazard to the airplane in the event of a part fracture. We are considering the need for additional rulemaking. We might issue future ADs to introduce additional intervention strategies to further reduce or eliminate uncontained engine failures.

Properly focused enhanced inspections require identification of the parts whose failure presents the highest safety hazard to the airplane, identifying the most critical features to inspect on these parts, and utilizing inspection procedures and techniques that improve crack detection. The CAA, with close cooperation of RR, has completed a detailed analysis that identifies the most safety significant parts and features, and the most appropriate inspection methods.

Critical life-limited high-energy rotating parts are currently subject to some form of recommended crack inspection when exposed during engine maintenance or disassembly. The inspections currently recommended by the manufacturer will become mandatory for those parts listed in the compliance section as a result of this AD. Furthermore, we intend that additional mandatory enhanced inspections resulting from this AD would serve as an adjunct to the existing inspections. We have determined that the enhanced inspections will significantly improve the probability of crack detection on disassembled parts during maintenance. All mandatory inspections must be conducted in accordance with detailed inspection procedures prescribed in the manufacturer's Engine Manual.

Additionally, this AD:

- Allows air carriers that operate under the provisions of 14 CFR part 121 with an FAA-approved continuous airworthiness maintenance program, and maintenance facilities to verify completion of the enhanced inspections.
- Allows the air carrier or maintenance facility to retain the maintenance records that include the inspections resulting from this AD, if the records include the date and signature of the person who performed the maintenance action.
- Requires retaining the records with the maintenance records of the part, engine module, or engine until the task is repeated.
- Establishes a method of record preservation and retrieval typically used in existing continuous airworthiness maintenance programs.
- Requires adding instructions in an air carrier's maintenance manual on how to implement and integrate this record preservation and retrieval system into the air carrier's record keeping system.

For engines or engine modules that are approved for return to service by an

authorized FAA-certificated entity, and that are acquired by an operator after the effective date of the AD, you would not need to perform the mandatory enhanced inspections until the next piece-part opportunity. For example, you would not have to disassemble to piece-part level, an engine or module returned to service by an FAA-certificated facility simply because that engine or module was previously operated by an entity not required to comply with this AD. Furthermore, we intend that operators perform the enhanced inspections of these parts at the next piece-part opportunity after the initial acquisition, installation, and removal of the part after the effective date of this AD. For piece parts not approved for return to service before the effective date of this AD, the AD requires that you perform the mandatory enhanced inspections before approval of those parts for return to service. The AD allows installation of piece parts approved for return to service before the effective date of this AD. However, the AD requires an enhanced inspection at the next piece-part opportunity.

This AD requires, within the next 40 days after the effective date of this AD, revisions to the Time Limits Manual.

FAA's Determination and Requirements of This AD

Although no airplanes that are registered in the United States use these engines, the possibility exists that the engines could be used on airplanes that are registered in the United States in the future. The unsafe condition described previously is likely to exist or develop on other RR RB211 Trent 700 series turbofan engines of the same type design. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this engine model, notice and opportunity for public comment before issuing this AD are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

Changes to 14 CFR Part 39—Effect on the AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47998, July 22, 2002), which governs our AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. 2003–NE–55–AD" in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us through a verbal communication, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with you. You may get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. *See* **ADDRESSES** for the location.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "AD Docket No. 2003–NE–55–AD" in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2004–05–31 Rolls-Royce plc: Amendment 39–13526. Docket No. 2003–NE–55–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 29, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) Trent 700 series turbofan engines. These engines are installed on, but not limited to, Airbus A330 series airplanes.

Unsafe Condition

(d) This AD results from the need to require enhanced inspection of selected critical life-limited parts of RR Trent 700 series turbofan engines. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

(f) Within the next 40 days after the effective date of this AD, revise the Time Limits Manual (TLM), and for air carrier

operations revise the approved continuous airworthiness maintenance program, by adding the following:

"GROUP A PARTS MANDATORY INSPECTION

(1) Inspections referred to as 'Focus Inspect' in the applicable Engine Manual inspection Task are mandatory inspections for the components given below, when the conditions that follow are satisfied:

(i) When the component has been completely disassembled to piece-part level as given in the applicable disassembly procedures contained in the Engine Manual; and

(ii) The part has more than 100 recorded flight cycles in operation since the last piece-part inspection; or

(iii) The component removal was for damage or a cause directly related to its removal; or

(iv) Where serviceable used components, for which the inspection history is not fully known, are to be used again.

(2) List of Group A Parts:

Part nomenclature	Part No.	Inspected per overhaul manual task
Low Pressure Compressor Rotor Disk	All	72–31–16–200–801
Low Pressure Compressor Rotor Shaft	All	72–31–20–200–801
Intermediate Pressure Compressor Rotor Shaft	All	72–32–31–200–801
Intermediate Pressure Rear Shaft	All	72–33–21–200–801
High Pressure Compressor Rotor Shaft	All	72–41–31–200–801
High Pressure Turbine Rotor Disk	All	72–41–51–200–801
Intermediate Pressure Turbine Rotor Disk	All	72–51–31–200–801
Intermediate Pressure Turbine Rotor Shaft	All	72–51–33–200–801
Low Pressure Turbine Stage 1 Rotor Disk	All	72–52–31–200–801
Low Pressure Turbine Stage 2 Rotor Disk	All	72–52–31–200–802
Low Pressure Turbine Stage 3 Rotor Disk	All	72–52–31–200–803
Low Pressure Turbine Stage 4 Rotor Disk	All	72–52–31–200–804
Low Pressure Turbine Rotor Shaft	All	72–52–33–200–801"

Alternative Methods of Compliance

(g) You must perform these mandatory inspections using the TLM and the applicable Engine Manual unless you receive approval to use an alternative method of compliance under paragraph (h) of this AD. Section 43.16 of the Federal Aviation Regulations (14 CFR 43.16) may not be used to approve alternative methods of compliance or adjustments to the times in which these inspections must be performed.

(h) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Maintaining Records of the Mandatory Inspections

(i) You have met the requirements of this AD by using a TLM changed as specified in paragraph (f) of this AD, and, for air carriers operating under part 121 of the Federal Aviation Regulations (14 CFR part 121), by modifying your continuous airworthiness maintenance plan to reflect those changes. You must maintain records of the mandatory inspections that result from those changes to the TLM according to the regulations governing your operation. You do not need to record each piece-part inspection as compliance to this AD. For air carriers operating under part 121, you may use either the system established to comply with section 121.369 or use an alternative system that your principal maintenance inspector has accepted if that alternative system:

(1) Includes a method for preserving and retrieving the records of the inspections resulting from this AD; and

(2) Meets the requirements of § 121.369(c); and

(3) Maintains the records either indefinitely or until the work is repeated.

(j) These record keeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the Time Limits Manual as specified in paragraph (f) of this AD, and do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Related Information

(k) CAA airworthiness directive No. G–2003–0004, dated September 18, 2003, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on March 5, 2004.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 04–5619 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17145; Airspace Docket No. 04–ACE–11]

Modification of Class E Airspace; Des Moines, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) have been developed to serve Des Moines International Airport, Des Moines, IA. Also, several existing SIAPs serving Des Moines International Airport have been amended. The Des Moines International Airport airport reference point (ARP) has been redefined.

The intended effect of this rule is to provide controlled airspace of appropriate dimensions to protect aircraft executing SIAPs to Des Moines International Airport. It also corrects discrepancies in the legal descriptions of the Des Moines, Class E airspace area and brings the airspace area and legal description into compliance with FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, June 10, 2004. Comments for inclusion in the Rules Docket must be received on or before April 15, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17145/ Airspace Docket No. 04–ACE–11, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal

Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Des Moines, IA. RNAV (GPS) RWY 5, ORIGINAL SIAP; RNAV (GPS) RWY 13, ORIGINAL SIAP; RNAV (GPS) RWY 23, ORIGINAL SIAP; RNAV (GPS) RWY 31, ORIGINAL SIAP; very high frequency omni-directional radio range (VOR)/ distance measuring equipment (DME) RWY 23, ORIGINAL SIAP; instrument landing system (ILS) or localizer (LOC) RWY 31, AMENDMENT 22 SIAP; ILS or LOC RWY 13, AMENDMENT 13 SIAP; and nondirectional radio beacon (NDB) RWY 31, AMENDMENT 20 SIAP have been developed to serve Des Moines International Airport. VOR or GPS RWY 23, AMENDMENT 2A will be cancelled when the above SIAPs become effective. The Des Moines International Airport ARP has been redefined. This action modifies the dimensions of the Des Moines, IA Class E airspace area to accommodate the SIAPs serving the airport. The radius of the airspace area is increased from 6.9 to 7 miles, the northwest and northeast extensions are revoked, the width of the southeast extension is increased from 3 to 4 miles each side of the RWY 31 localizer course and a southwest extension is created 4 miles each side of the RWY 5 localizer course extending from the 7-mile radius to 12.3 miles southwest of the airport. This action also incorporates the revised ARP and brings the airspace area and its legal description into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, and adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2004–17145/Airspace Docket No. 04–ACE–11." The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE 1A E5 Des Moines, IA

Des Moines International Airport, IA
(Lat. 41°32′03″N., long. 93°39′45″W.)
Des Moines Runway 31 Localizer
(Lat. 41°32′50″N., long. 93°40′36″W.)
Des Moines Runway 5 Localizer
(Lat. 41°32′24″N., long. 93°38′48″W.)
FOREM LOM
(Lat. 41°28′56″N., long. 93°34′51″W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Des Moines International Airport and within 4 miles each side of the Des Moines Runway 31 Localizer course extending from the 7-mile radius of the airport to 10 miles southeast of FOREM LOM and within 4 miles each side of the Des Moines Runway 5 Localizer course extending from the 7-mile radius to 12.3 miles southwest of the airport.

* * * * *

Issued in Kansas City, MO, on March 2, 2004.

David W. Hope,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–5687 Filed 3–11–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17144; Airspace Docket No. 04–ACE–10

Modification of Class E Airspace; Cedar Rapids, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace areas at Cedar Rapids, IA. On February 2, 2004, The Eastern Iowa Airport airport reference point (ARP) was redefined. This action modifies the Cedar Rapids, IA Class E airspace areas by incorporating the revised ARP. A review of these airspace areas revealed that the Cedar Rapids Class E airspace area extending upward from 700 feet Above Ground Level (AGL) does not comply with FAA Orders.

The intended effect of this rule is to provide appropriate controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR) at Cedar Rapids, IA and to bring the areas into compliance with FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, June 10, 2004. Comments for inclusion in the Rules Docket must be received on or before April 14, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–200417144/ Airspace Docket No. 04–ACE–10, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The Eastern Iowa Airport ARP has been redefined. This amendment to 14 CFR part 71 modifies the legal description of the Class E airspace designated as a surface area at Cedar Rapids, IA by incorporating the revised ARP. This amendment also modifies the cedar Rapids, IA Class E airspace area extending upward from 700 feet above the surface and its legal description. The revised ARP is incorporated, the radius of the airspace about The Eastern Iowa Airport is decreased from a 7.4-mile radius to a 6.9-mile radius, the extension to this airspace area is enlarged from 3 miles each side of the 271° bearing from CINDY LOM to 4 miles north and 8 miles south of the bearing and the length of the extension is defined in relation to the LOM. This action brings the legal descriptions of both Cedar Rapids, IA Class E airspace areas into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The areas will be depicted on appropriate aeronautical charts. Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of the same Order. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2004–17144/Airspace Docket No. 04–ACE–10." The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ACE IA E2 Cedar Rapids, IA

Cedar Rapids, The Eastern Iowa Airport, IA
(Lat. 41°53′05″ N., long. 91°42′39″ W.)

Within a 4.4-mile radius of The Eastern Iowa Airport. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Cedar Rapids, IA

Cedar Rapids, The Eastern Iowa Airport, IA
(Lat. 41°53′05″ N., long. 91°42′39″ W.)
CINDY LOM
(Lat. 41°53′08″ N., long. 91°48′09″ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of The Eastern Iowa Airport and within 4 miles north and 8 miles south of the 271° bearing from the CINDY LOM extending from the 6.9-mile radius of the airport to 16 miles west of the LOM.

* * * * *

Issued in Kansas City, MO, on March 1, 2004.

David W. Hope,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–5686 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16763; Airspace Docket No. 03–ACE–100]

Modification of Class E Airspace; Springfield, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Springfield, MO.

EFFECTIVE DATE: 0901 UTC, April 15, 2004.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **FEDERAL REGISTER** on January 15, 2004 (69 FR 22296) and subsequently published a correction to the direct final rule on February 5, 2004 (69 FR 5461). The FAA uses the direct final rule making procedure for a non-controversial rule where the FAA believes there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 15, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on March 1, 2004.

David W. Hope,

Acting Manager, Air Traffic Division, Central Regional.

[FR Doc. 04–5685 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17150; Airspace Docket No. 04–ACE–16]

Modification of Class E Airspace; Gideon, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Gideon, MO. A review of controlled airspace for Gideon Memorial Airport revealed it does not comply with the criteria for 700 feet above ground level (AGL) airspace required for diverse departures. The review also identified a discrepancy in the legal description for the Gideon, MO Class E airspace area. The area is modified and enlarged to conform to the criteria in FAA Orders.

DATES: The direct final rule is effective on 0901 UTC, June 10, 2004. Comments for inclusion in the Rules Docket must be received on or before April 19, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17150/ Airspace Docket No. 04–ACE–16, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Municipal Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Gideon, MO. An examination of controlled airspace for Gideon Memorial Airport reveals it does not meet the criteria for 700 feet AGL airspace

required for diverse departures as specified in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The criteria in FAA Order 7400.2E for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the airport reference point (APR) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The examination also revealed a discrepancy in the Gideon Memorial Airport ARP used in the legal description for this airspace area. This amendment expands the airspace area from a 6-mile radius to a 6.4-mile radius of Gideon Memorial Airport, incorporates the revised Gideon Memorial Airport ARP into the legal description, and brings the legal description of the Gideon, MO Class E airspace area into compliance with FAA Order 7400.2E. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2004–17150/Airspace Docket No. 04–ACE–16." The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Gideon, MO

Gideon Memorial Airport, MO
(Lat. 36°26′38″ N., long. 89°54′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Gideon Memorial Airport.

* * * * *

Issued in Kansas City, MO, on March 3, 2004.

David W. Hope,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–5684 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17152; Airspace Docket No. 04–ACE–18]

Modification of Class E Airspace; Cassville, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Cassville, MO. A review of controlled airspace for Cassville Municipal Airport revealed it does not comply with the criteria for 700 feet above ground level (AGL) airspace required for diverse departures. The review also identified a discrepancy in the legal description for the Cassville, MO Class E airspace area.

The area is modified and enlarged to conform to the criteria in FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, June 10, 2004. Comments for inclusion in the Rules Docket must be received on or before April 20, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17152/ Airspace Docket No. 04–ACE–18, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Municipal Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Cassville, MO. An examination of controlled airspace for Cassville Municipal Airport reveals it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The criteria in FAA Order 7400.2E for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the airport reference point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The examination also revealed a discrepancy in the Cassville Municipal Airport ARP used in the legal description for this airspace area. This amendment expands the airspace area from a 6-mile radius to a 6.3-mile radius of Cassville Municipal Airport, incorporates the revised Cassville Municipal Airport ARP into the legal description, and brings the legal description of the Cassville, MO Class E airspace area into compliance with FAA Order 7400.2E. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2004–17152/Airspace Docket No. 04–ACE–18." The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Cassville, MO

Cassville Municipal Airport, MO
(Lat. 36°41′51″ N., long. 93°54′02″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Cassville Municipal Airport.

Issued in Kansas City, MO, on March 4, 2004.

David W. Hope,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–5683 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17151; Airspace Docket No. 04–ACE–17]

Modification of Class E Airspace; Johnson, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Johnson, KS. Controlled airspace at Johnson, KS was modified and published in the **Federal Register** with an effective date of February 19, 2004. A new Standard Instrument Approach Procedure (SIAP) has been developed to serve Stanton County Municipal Airport requiring additional controlled airspace. This action provides controlled airspace of appropriate dimensions to protect aircraft executing SIAPs in instrument weather conditions to the Stanton County Municipal Airport and brings the airspace area and legal description into compliance with FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, June 10, 2004. Comments for inclusion in the Rules Docket must be received on or before April 20, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17151/ Airspace Docket No. 04–ACE–17, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Johnson, KS. Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) that serve Runway (RWY) 17 and RWY 35 Stanton County Municipal Airport and nondirectional radio beacon (NDB)–A SIAP were developed to serve Stanton County Municipal Airport. Controlled airspace at Johnson, KS was modified to appropriate dimensions for the new SIAPs and published in the **Federal Register** on Wednesday, November 19, 2003 (68 FR 65159) [FR Doc. 03–28825]. The NDB–A SIAP has been replaced by a newly developed NDB RWY 17 SIAP with lower approach minimums. The new NDB RWY 17 SIAP has a lower final approach fix crossing altitude than the NDB–A SIAP it replaces. This necessitates a north extension of the Johnson, KS Class E airspace area to protect aircraft executing the SIAP in instrument weather conditions. This action brings the legal description of this airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2004–17151/Airspace Docket No. 04–ACE–17." The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE KS E5 Johnson, KS

Johnson, Stanton County Municipal Airport, KS
(Lat. 37°34′58″N., long. 101°43′58″ W.)
Bear Creek NDB
(Lat. 37°38′08″N., long. 101°44′05″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stanton County Municipal Airport and within 1.9 miles each side of the 359° bearing from Bear Creek NDB extending from the 6.5-mile radius of the airport to 7 miles north of the NDB.

* * * * *

Issued in Kansas City, MO, on March 4, 2004.

David W. Hope,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–5682 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[AL–63–200412; FRL–7634–9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Alabama; Redesignation of Birmingham Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of the redesignation of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment area of Birmingham, Alabama, to attainment, and finalizing approval of Alabama's State Implementation Plan (SIP) revision containing a 10-year maintenance plan for the 1-hour ozone NAAQS for the Birmingham area. Additionally, through this action, EPA is providing notification of its determination that the motor vehicle emission budgets (MVEBs) for the year 2015 contained in the 10-year maintenance plan SIP revision for the 1-hour ozone standard for the Birmingham area (submitted on January 30, 2004, by the Alabama Department of Environmental Management (ADEM)), are adequate for transportation conformity purposes. Because EPA is approving these 2015 MVEBs as part of its approval of Alabama's 10-year maintenance plan SIP revision for the Birmingham area, the 2015 MVEBs contained in the Birmingham area's 10-year maintenance plan for the 1-hour ozone standard, can be used for future conformity determinations on the date of publication of this Final rule.

DATES: This final rule is effective on April 12, 2004.

ADDRESSES: Copies of documents relative to this action are available at the following address for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

The interested persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9042. Ms. Sheckler can also be reached via electronic mail at *sheckler.kelly@epa.gov.*

Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 19, 2003, the State of Alabama, through ADEM, submitted (1) a request to redesignate the 1-hour ozone NAAQS nonattainment area of Birmingham, Alabama, to attainment, and (2) a request for parallel processing of a draft Alabama SIP revision containing a 10-year maintenance plan for the 1-hour ozone standard for the Birmingham area. ADEM held a public meeting on January 9, 2004, to receive comments on these requested actions. Alabama's comment period for these actions closed January 13, 2004. With the exception of a positive comment concerning the redesignation ADEM did not receive any adverse comments. On January 30, 2004, ADEM submitted to EPA the final Maintenance Plan SIP revision request for final review and approval. The final Maintenance Plan submittal did not contain any changes from the Draft Maintenance Plan submitted to EPA on November 19, 2003.

On January 6, 2004, (69 FR 558) EPA published a notice of proposed rulemaking (NPR) proposing to approve the redesignation of the 1-hour ozone NAAQS nonattainment area of Birmingham, Alabama, to attainment, and proposing to approve the SIP revision containing a 10-year maintenance plan for the 1-hour ozone standard for the Birmingham area. In the January 6, 2004 NPR, EPA also provided the public with an opportunity to review and comment on the adequacy of new volatile organic compounds (VOC) and nitrogen oxides (NO_X) MVEBs for the year 2015 for purposes of determining transportation conformity. The January 6, 2004 NPR provides a detailed description of each of these matters and the rationale for each of EPA's proposed actions, together with a discussion of the opportunity to comment on the adequacy of the 2015 MVEBs. The public comment period for

these actions ended on February 5, 2004. No comments, adverse or otherwise, were received on EPA's proposed actions or on the adequacy of the 2015 MVEBs for transportation conformity purposes.

II. Today's Action

Section 107(d)(3)(D) allows a Governor to initiate the redesignation process for an area to apply for attainment status. On January 30, 2004, Alabama requested redesignation of the 1-hour ozone attainment status for the Birmingham area. Today, EPA is approving the 1-hour ozone redesignation request and the 10-year maintenance plan SIP revision. EPA's approval of the 1-hour ozone redesignation request is based on its determination that the Birmingham, Alabama, area has met the five criteria for redesignation to attainment specified in the Clean Air Act, including a demonstration that the area has attained the 1-hour ozone NAAQS. The 1990 Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment: (1) The area has attained the applicable NAAQS; (2) the area has met all applicable requirements under section 110 and part D of the CAA; (3) the area has a fully approved SIP under section 110(k) of the CAA; (4) the air quality improvement is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions, and (5) the area has a fully approved maintenance plan pursuant to section 175A of the CAA. EPA's analysis of the five criteria as applied to Alabama's redesignation request are discussed in detail in the January 6, 2004 NPR.

The State of Alabama's request is based on an analysis of quality-assured ozone air quality data which is relevant to the redesignation request and reflects attainment of the 1-hour ozone standard. The data used to support the redesignation request come from the State and Local Air Monitoring Station network. The request is based on ambient air ozone monitoring data collected for 3 consecutive years from 2001 through 2003.

In a letter dated December 3, 2003, ADEM certified that the Shelby County 2003 data is accurate and in a letter dated December 3, 2003, Jefferson County Department of Health certified that the Jefferson County 2003 data is accurate. The ozone monitoring data for the April through October ozone season from 2001 to 2003 has been quality assured and is recorded in AIRS. During the 2001 to 2003 time period, the design value is 0.113 ppm. The average annual number of expected exceedances is 1.0 for that same time period.

The data satisfies the CAA requirements of no more than one exceedance per annual monitoring period. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient data is available to warrant the redesignation and the area meets the other four CAA redesignation requirements. As noted above, and as discussed in detail in the January 6, 2004 NPR, EPA has determined that sufficient data is available to warrant redesignation and that the other four redesignation criteria have been met in the Birmingham area for the 1-hour ozone national ambient air quality standard.

Today, EPA is also approving Alabama's SIP revision to provide for the maintenance of the 1-hour ozone NAAQS in the Birmingham area for at least 10 years after redesignation. The underlying strategy of the maintenance plan is to show compliance and maintenance of the 1-hour ozone standard by assuring that current and future emissions of VOC and NO_X remain at or below attainment year (2003) emissions levels. Under section 175A of the CAA, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any future 1-hour ozone violations.

As discussed in detail in the January 6, 2004 NPR, EPA has determined that the 10-year maintenance plan meets the elements for maintenance plans set out in section 175A of the Clean Air Act. Because the 1-hour ozone 10-year maintenance plan for the Birmingham area meets the requirements of section 175A of the CAA, EPA is approving the maintenance plan and the 2015 MVEBs for VOC and NO_X that are contained within the 10-year maintenance plan. Because EPA is approving the 2015 MVEBs for VOC and NO_X as part of its approval of Alabama's 10-year maintenance plan for the 1-hour ozone standard, the 2015 MVEBs for VOC and NO_X can be used for future conformity determinations on the date of publication of this Final rule. The specific 2015 MVEBs to be used on the date of publication of this Final rule are: 23 tons per day of VOCs and 41 tons per day of NO_X.

Finally, through this rulemaking, EPA is providing notice that it has determined that the 2015 MVEBs for VOC and NO_X, as contained in the 10-year maintenance plan discussed above, meet the substantive criteria for "adequacy" as set out in 40 CFR 93.118(e)(4), and are adequate for purposes of transportation conformity. EPA Region 4 sent a letter to ADEM on March 3, 2004, stating that the MVEB in the Birmingham 1-Hour Ozone Maintenance SIP revision submitted on January 30, 2004, are adequate. These 2015 MVEBs, as they relate to adequacy determinations for transportation conformity purposes, are discussed in detail in the January 6, 2004 NPR, which provided public notice and requested comment on the adequacy of the 2015 MVEBs. EPA received no comments on the "adequacy" determination for the 2015 MVEBs.

EPA's adequacy determination for the 2015 MVEBs contained in the 1-hour ozone 10-year maintenance plan has also been announced on EPA's conformity Web site: *BM_1_http://www.epa.gov/otaq/transp.htm*, (once there, click on the "Transportation Conformity" text icon, then look for "Adequacy Review of State Implementation Plan (SIP) Submissions for Conformity"). As noted above, because EPA is approving the 2015 MVEBs for VOC and NO_X as part of its approval of Alabama's 10-year maintenance plan for the 1-hour ozone standard for the Birmingham area, the 2015 MVEBs can be used for future conformity determinations on the date of publication of this Final rule. The specific 2015 MVEBs to be used on the date of publication of this Final rule are: 23 tons per day of VOCs and 41 tons per day of NO_X.

III. Final Action

EPA is approving the redesignation of the 1-hour ozone NAAQS nonattainment area of Birmingham, Alabama, to attainment, and approving Alabama's SIP revision containing a 10-year maintenance plan for the 1-hour ozone standard for the Birmingham area because the redesignation and the maintenance plan meet the requirements of sections 107(d) and 175A of the Clean Air Act, respectively. EPA is also providing notice that it has determined the 2015 VOC and NO_X MVEBs, as contained in the 10-year

maintenance plan for the 1-hour ozone standard for the Birmingham area, to be adequate under the requirements of 40 CFR 93.118(e)(4).

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 11, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 1, 2004.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Parts 52 and 81, chapter I, title 40, Code of Federal Regulations, are amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

■ 2. Section 52.50(e) is amended by adding a new entry for "Maintenance plan for the Birmingham area".

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* *	* * *		*	*
Maintenance plan for the Birmingham area ...	Jefferson County and Shelby County	01/30/2004	03/12/2004	

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. In § 81.301, the table entitled "Alabama-Ozone (1-Hour Standard)" is amended by revising the entries for "Jefferson County" and "Shelby County" to read as follows:

§ 81.301 Alabama.

* * * * *

ALABAMA-OZONE (1–HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Birmingham Area:				
Jefferson County	4/12/04	Attainment.		
Shelby County	4/12/04	Attainment.		
* * *	*	*	*	*

[1] This date is October 18, 2000, unless otherwise noted.

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[FR Doc. 04–5508 Filed 3–11–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 262 and 271

[FRL–7634–4]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revisions; State-Specific Modification to Federal Hazardous Waste Regulations, Pursuant to ECOS Program Proposal; Extension of Site-Specific Regulations for New England Universities' Laboratories XL Project

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action consists of three distinct but related final rulemakings briefly characterized here and further discussed in the supplementary information section of this rule. First, the EPA is granting final authorization to the Commonwealth of Massachusetts, under the Resource Conservation and Recovery Act (RCRA), for revisions to the State's hazardous waste program which meet the standard EPA regulatory requirements for authorization of State programs. The revisions consist of updated State regulations covering hazardous waste definitions and miscellaneous provisions, provisions for the identification and listing of hazardous wastes, and standards for hazardous waste generators, which correspond to RCRA Consolidated Checklists C1, C2 and C3, respectively. These State regulations have been updated to address most Federal RCRA requirements listed in Checklists C1, C2 and C3 through at least July 1, 1990.

Second, the State regulations submitted for authorization also include comprehensive regulations governing hazardous wastes being recycled on-site by generators. These regulations do not meet the standard EPA requirements for State authorization but have been determined by the EPA to meet the RCRA statutory test of protecting human health and the environment. The EPA also has determined that these Massachusetts regulations are at least as environmentally protective overall as the Federal program. Thus the EPA is today making a State-specific modification to the Federal hazardous waste regulations to enable the EPA to authorize these Massachusetts regulations, pursuant to a proposal for flexibility submitted by the Massachusetts Department of Environmental Protection (MADEP) under the program established by the Joint EPA/State Agreement To Pursue Regulatory Innovation between the EPA and the Environmental Council of States (ECOS program). As part of this same rulemaking, the EPA is also today authorizing these Massachusetts hazardous waste recyclable materials regulations.

Third, the EPA is today extending the expiration date of site-specific regulations previously adopted by the EPA under the eXcellence and Leadership program (Project XL) allowing alternative RCRA generator requirements to be followed for laboratories at certain universities in Massachusetts (and Vermont). As part of this same rulemaking, the EPA is also today authorizing the Massachusetts regulations which track these EPA regulations. The EPA already has authorized the Vermont regulations which track these EPA regulations and expects to extend the authorization of the Vermont regulations through a separate rulemaking.

On October 21, 2003, the EPA proposed to take these three actions. No negative public comments were received in response to the proposal.

DATES: This final rulemaking, covering both the revisions to the federal regulations and the EPA's authorization of the State regulations, is effective immediately without further notice as of March 12, 2004.

ADDRESSES: Dockets containing copies of the Commonwealth of Massachusetts' revision application, the materials which the EPA used in evaluating the revision, and materials relating to the State-specific and site-specific Federal regulation changes, have been established at the following two locations: (i) Massachusetts Department of Environmental Protection, Business Compliance Division, One Winter Street—8th Floor, Boston, MA 02108, business hours Monday through Friday 9 a.m. to 5 p.m., tel: (617) 556–1096; and (ii) EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114–2023, business hours Monday through Thursday 10 a.m.–3 p.m., tel: (617) 918–1990. Records in these dockets are available for inspection and copying during normal business hours.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Unit, EPA Region I, One Congress St., Suite 1100 (CHW), Boston, MA 02114–2023, tel: (617) 918–1642, e-mail: *biscaia.robin@epa.gov*.

SUPPLEMENTARY INFORMATION: As indicated above, the EPA published a **Federal Register** notice on October 21, 2003 (68 FR 60060) proposing to take the three actions which are the subject of this notice. No negative public comments were received by the EPA in response to the proposal. Thus the EPA is today taking final actions in accordance with its prior proposal. Note that the EPA proposed to approve the

State regulations when they were in proposed form, and conducted its public comment process simultaneously with the State public comment process. The State regulations recently were finalized and submitted for authorization by the EPA.

Today's federal rulemaking includes granting final authorization under 40 CFR part 271 to the Commonwealth of Massachusetts for revisions to its hazardous waste program under the Resource Conservation and Recovery Act. No changes to 40 CFR part 271 result from the authorization of State regulations under that part. Today's federal rulemaking also includes making changes to the federal regulations in 40 CFR part 262, in connection with Massachusetts' ECOS program proposal and the XL project. The resulting changes to 40 CFR part 262 are set out at the end of this document.

In part I, below, this document will discuss the updated State RCRA regulations which are being authorized in accordance with the standard EPA State authorization regulations in 40 CFR part 271.

In part II, below, this document will discuss the State-specific change to the Federal regulations in 40 CFR part 262 being made under the ECOS program to allow authorization of the Massachusetts hazardous waste recyclable materials regulations, and the resulting authorization of the recyclable materials regulations.

In part III, below, this document will discuss the extension of the expiration date in 40 CFR part 262 of the New England Universities' Laboratories project XL regulations, and the authorization of the Massachusetts project XL regulations.

In part IV, below, this document will assess the effects of these decisions, in accordance with various statutes and executive orders.

I. Final Authorization of State Hazardous Waste Management Program Revisions; Standard Authorization:

A. Why Are Revisions to State Programs Necessary?

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Has Massachusetts Previously Been Authorized for Under RCRA?

The Commonwealth of Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344), to implement its base hazardous waste management program. This authorized base program generally tracked Federal hazardous waste requirements through July 1, 1984. In addition, the EPA previously has authorized particular Massachusetts regulations which address several of the EPA requirements adopted after July 1, 1984. Specifically, on September 30, 1998, the EPA authorized Massachusetts to administer the Satellite Accumulation rule, effective November 30, 1998 (63 FR 52180). Also, on October 12, 1999, the EPA authorized Massachusetts to administer the Toxicity Characteristics rule (except with respect to Cathode Ray Tubes), and the Universal Waste rule, effective immediately (64 FR 55153). Finally, on November 15, 2000, the EPA granted interim authorization for Massachusetts to regulate Cathode Ray Tubes under the Toxicity Characteristics rule through January 1, 2003, effective immediately (65 FR 68915). This interim authorization subsequently was extended to run through January 1, 2006 (67 FR 66338, October 31, 2002).

C. What Decisions Is the EPA Making in This Standard Authorization?

The EPA is authorizing Massachusetts regulations which will update the State's hazardous waste program. The State regulations cover hazardous waste definitions and miscellaneous provisions, provisions for the identification and listing of hazardous wastes; and standards for hazardous waste generators, which correspond to RCRA Consolidated Checklists C1, C2 and C3, respectively. The State regulations have been updated to address most Federal RCRA requirements listed in Checklists C1, C2 and C3 through at least July 1, 1990. The EPA is authorizing these changes. In addition to addressing requirements in Checklists C1, C2 and C3 not previously covered by authorized State regulations, the State regulations make some changes to the previously authorized Satellite Accumulation, Universal Waste rule and Toxicity Characteristics rule regulations. The EPA also is authorizing these changes. In addition, the State regulations include some State initiated changes to previously authorized Base Program regulations (*i.e.*, changes made for reasons other than addressing new EPA requirements). The EPA also is authorizing these changes insofar as they address hazardous waste definitions and miscellaneous provisions, provisions for the identification and listing of hazardous wastes, and standards for hazardous waste generators, and except as specified below. Finally, the State regulations include provisions which track the 180 Day Accumulation Time rule for metal finishing industry waste water treatment sludges (F006) being recycled, adopted by the EPA on March 6, 2000 (65 FR 12397). The EPA also is authorizing these provisions.

The specific RCRA program revisions for which the EPA is authorizing the Commonwealth of Massachusetts are listed in the table below. The Federal requirements in the table are identified by their checklist numbers and rule descriptions. The following abbreviation is used in defining analogous state authority: CMR = Code of Massachusetts Regulations. The citations in the table are to the CMR provisions as recently adopted/amended by the MADEP in Massachusetts Register No. 994 (February 27, 2004).

Description of Federal requirements and checklist reference numbers	Analogous state authority
Consolidated Checklist 1 through July 1, 1990, covering base program requirements in 40 CFR part 260, and requirements in the following rule checklists included in part 260:	310 CMR 30.001–30.009; 30.010 (definitions), except for definitions relating to program elements not being authorized, namely "mixed waste," "municipal or industrial wastewater treatment facility permitted under M.G.L. c. 21, sec. 43" and definitions relating to used oil program; 30.011–30.030.
(5) National Uniform Manifest (definitions), 49 FR 10490, 3/20/84;	
(11) Corrections to Test Methods Manual, 49 FR 47390, 12/4/84;	

Description of Federal requirements and checklist reference numbers	Analogous state authority
(13) Definition of Solid Waste, 50 FR 14216, 4/11/85 as amended on 8/20/85 at 50 FR 33541 (except for variance authorities, 40 CFR 260.30 through 40 CFR 260.33); (23) Generators of 100 to 1000 kg Hazardous Waste (definitions), 51 FR 10146, 3/24/86; (24) Financial Responsibility; Settlement Agreement (definitions), 51 FR 16422, 5/2/86; (28) Standards for Hazardous Waste Storage and Treatment Tank Systems (definitions), 51 FR 25422, July 14, 1986 as amended on August 15, 1986 at 51 FR 29430; (35) Revised Manual SW–846, Amended Incorporation by Reference (definitions), 52 FR 8072–8073, March 16, 1987; (49) Identification and Listing of Hazardous Waste, Treatability Studies Sample Exemption (definition), 53 FR 27290, 7/19/88; (67) Testing and Monitoring Activities, 54 FR 40260, 9/29/89; (71) Mining Waste Exclusion II (definition), 55 FR 2322, 1/23/90.	
Consolidated Checklist 2 through July 1, 1990, covering base program requirements in 40 CFR part 261 and requirements in the following rule checklists included in part 261:	310 CMR 30.101–30.103; 30.104 (exemptions), except for 30.104(3)(d) (research study samples); 30.105–30.162; 30.353 (rules for very small quantity generators, being authorized in place of EPA conditional exemption in 40 CFR 261.5)
(4) Chlorinated Aliphatic Hydrocarbon Listing (F024), 49 FR 5308, 2/10/84; (7) Warfarin and Zinc Phosphide Listing, 49 FR 19922, 5/10/84; (8) Lime Stabilized Pickle Liquor Sludge, 49 FR 23284, 6/5/84; (9) Household Waste, 49 FR 44978, 11/13/84; (13) Definition of Solid Waste, 50 FR 614, 1/4/85 as amended 4/11/85 at 50 FR 14216 and 8/20/85 at 50 FR 33541; (14) Dioxin Waste Listing and Management Standards, 50 FR 1978, 1/14/85; (17C) HSWA Codification Rule—Household Waste, 50 FR 28702, 7/15/85; (17J) HSWA Codification Rule—Cement Kilns, 50 FR 28702, 7/15/85; (18) Listing of TDI, TDA, DNT, 50 FR 42936, 10/23/85; (20) Listing of Spent Solvents, 50 FR 53315, 12/31/85 as amended on 1/21/86 at 51 FR 2702; (21) Listing of EDB Waste, 51 FR 5327, 2/13/86; (22) Listing of Four Spent Solvents, 51 FR 6537, 2/25/86; (23) Generators of 100 to 1000 kg hazardous waste, 51 FR 10146, 3/24/86; (26) Listing of Spent Pickle Liquor, 51 FR 19320, 5/28/86 amended on 9/22/86 by 51 FR 33612 and on 8/3/87 by 52 FR 28697; (28) Standards for Hazardous Waste Storage and Treatment Tank Systems, 51 FR 25422, 7/14/86 as amended on 8/15/86 at 51 FR 29430; (29) Correction to Listing of Commercial Chemical Products and Appendix VIII, 51 FR 28296, 8/6/86 (superseded by Checklist 46, see below); (31) Exports of Hazardous Waste, 51 FR 28664, 8/8/86; (33) Listing of EBDC, 51 FR 37725, 10/24/86; (37) Definition of Solid Waste, Technical Correction, 52 FR 21306, 6/5/87; (41) Identification and Listing of Hazardous Waste, 52 FR 26012, 7/10/87; (46) Technical Correction, Identification and Listing of Hazardous Waste, 53 FR 13382, 4/22/88; (47) Identification and Listing of Hazardous Waste, Technical Correction (corrects CL 23); (49) Identification and Listing of Hazardous Waste, Treatability Studies Sample Exemption, 53 FR 27290, 7/19/88; (53) Identification and Listing of Hazardous Waste, and Designation, Reportable Quantities, and Notification, 53 FR 35412, 9/13/88; (56) Identification and Listing of Hazardous Waste, Removal of Iron Dextran from the List of Hazardous Wastes, 53 FR 43878, 10/31/88; (57) Identification and Listing of Hazardous Waste, Removal of Strontium Sulfide from the List of Hazardous Wastes, 53 FR 43881, 10/31/88; (65) Mining Waste Exclusion I, 54 FR 36592, 9/1/89; (67) Testing and Monitoring Activities, 54 FR 40260, 9/29/89; (68) Reportable Quantity Adjustment Methyl Bromide Production Wastes, 54 FR 41402, 10/6/89; (69) Reportable Quantity Adjustment, 54 FR 50968, 12/11/89; (71) Mining Waste Exclusion II, 55 FR 2322, 1/23/90; (72) Modifications of F019 Listing, 55 FR 5340, 2/14/90; (73) Testing and Monitoring Activities, Technical Corrections, 55 FR 8948, 3/9/90; (75) Listing of 1,1-Dimethylhydrazine Production Wastes, 55 FR 18496, 5/2/90; (76) Criteria for Listing Toxic Wastes, technical amendment, 55 FR 18726, 5/4/90.	
Consolidated Checklist 3 through July 1, 1990, covering base program requirements in 40 CFR part 262 and requirements in the following rule checklists included in part 262:	310 CMR 30.301–30.352 (rules for large and small quantity generators); revisions to 30.685(1) (referenced by generator regulations); 30.361 (international shipments); 30.061–30.064 (generator notifications/i.d. numbers).
(1) Biennial Report, 48 FR 3977, 1/28/83;	

Description of Federal requirements and checklist reference numbers	Analogous state authority
(5) National Uniform Manifest, 49 FR 10490, 3/20/84; (17D) HSWA Codification Rule, Waste Minimization, 50 FR 28702, 7/15/85; (23) Generators of 100 to 1000 kg Hazardous Waste, 51 FR 10146, 3/24/86; (28) Standards for Hazardous Waste Storage and Treatment Tank Systems, 51 FR 25422, 7/14/86 as amended on 8/15/86 at 51 FR 29430; (31) Exports of Hazardous Waste, 51 FR 28664, 8/8/86; (32) Standards for Generators, Waste Minimization Certifications, 51 FR 35190, 10/1/86; (42) Exception Reporting for Small Quantity Generators of Hazardous Waste, 52 FR 35894, 9/23/87; laboratories (48) Farmer Exemptions, Technical Corrections, 53 FR 27164, 7/19/88; (58) Standards for Generators of Hazardous Waste, Manifest Renewal, 53 FR 45089, 11/8/88; (71) Mining Waste Exclusion II, 55 FR 2322, 1/23/90.	**Note:** The Massachusetts "Class A" recycling regulations regarding generators doing on-site recycling also are being authorized, as described in Part II of this document. Special rules for certain university covered by the New England Universities' Laboratories XL project also are being authorized, as described in Part III of this document.
RCRA Cluster X:	
(184) Accumulation Time for Waste Water Treatment Sludges, 65 FR 12378, 3/8/00.	310 CMR 30.340(5)
Revisions to Previously Authorized Rules:	
(12) Satellite Accumulation Rule, 49 FR 49568, 12/20/84;	310 CMR 30.340(6), 30.351(5), 30.351(2)(b)(6.) and 30.353(2)(b)(6.).
(119) Toxicity Characteristics Revision, TCLP Correction, 57 FR 55114, 11/24/92 as amended on 2/2/93 at 58 FR 6854.	310 CMR 30.155 and 30.012 (updated incorporation by reference).
(142) Universal Waste Rule, 60 FR 25492, 5/11/95	310 CMR 30.1034(5)(c)(1.)(c.) (revised cross-reference).

Following review of these Massachusetts regulations, the EPA has determined that they are equivalent to, no less stringent than and consistent with the Federal program. Therefore, under the standard authorization process, the EPA is granting Massachusetts final authorization to operate its updated hazardous waste program as reflected in the table above. The reasons for these determinations are set forth in the Administrative Docket, which is available for public review. Many of the State regulations track Federal requirements virtually identically. Others differ from the Federal regulations in particular details, but have been determined by the EPA to be equivalent to the Federal regulations in providing the same (or greater) overall level of environmental protection with respect to each Federal requirement. The resolution of various issues relating to the State regulations is recorded in an EPA Memorandum dated February 14, 2003 entitled "Comments on Proposed Massachusetts RCRA Regulations" and an EPA Memorandum dated March 31, 2003 entitled "Resolution of Issues Regarding Proposed Massachusetts RCRA Regulations."

The final State regulations being authorized by the EPA today are virtually identical to the proposed State regulations that were proposed to be approved by the EPA on October 21, 2003. The only substantive difference between the proposed state regulations and final regulations is that, in response to public comments made at the State level, the MADEP has not adopted the proposed requirement that inspection logs be kept of inspections made in Satellite accumulation areas. The requirement that weekly inspections occur in such areas has been maintained. The EPA is today authorizing the State's Satellite accumulation area regulations, notwithstanding this change, since the State's regulations remain at least as stringent as the federal Satellite accumulation area regulations. The EPA is granting this final authorization without conducting an additional public comment process, since the change is a minor one and is a logical outgrowth from the State regulations initially proposed to be authorized by the EPA.

Today's authorization addresses some but not all of the RCRA provisions which need to be adopted by the State. Future updates of the State's regulations will need to address requirements covered by Checklists C1 through C3 adopted after July 1, 1990 and requirements covered by Checklists C4 through C10 adopted since July 1, 1984. The EPA has not reviewed and is not currently authorizing changes the State may have made to Base Program regulations relating to Checklists C4–C10. (Note, Checklists C4 through C10 address EPA provisions found in 40 CFR parts 263, 264, 265, 266, 268, 270, 124 and 279). Also not covered in the current authorization are some rules issued by the EPA before July 1, 1990 which apply in part to generators, namely the 1986 Radioactive Mixed Waste rule/interpretation, the various rules relating to Land Disposal Restrictions ("LDRs"), and the 1990 Organics Air Emissions rule ("AA" and "BB" rule). Also not covered in the current authorization are sector-specific rules that the MADEP has adopted for printers, photo processors and dry cleaners under its Environmental Results Program ("ERP"). Although many sources in these sectors are subject to RCRA requirements, the MADEP has advised the EPA that the ERP regulations have not made any changes to the hazardous waste management requirements applicable to these sectors, and has not submitted the ERP regulations for authorization at this time. Also not covered in the current authorization is the State regulation at 310 CMR 30.104(3)(d) relating to research facilities. That regulation relates to an exemption from full Treatment, Storage, Disposal Facility ("TSDF") requirements found at 310 CMR 30.864. The EPA will review that research facility provision (and the related exemption) when the MADEP submits updated regulations for TSDFs (Consolidated Checklists C5, C6 and C9). Also not covered in the current authorization is the proposed State definition of "municipal or industrial

wastewater treatment facility permitted under M.G.L. c. 21, sec. 43" in 310 CMR 30.010. That definition relates to an exemption from full TSDF requirements found at 310 CMR 30.801(4). The EPA will review this definition (and the related exemption) when the MADEP submits updated regulations for TSDFs.

D. Where Are the State Rules Different From the Federal Rules?

The most significant differences between the State rules and the Federal rules are summarized below. It should be noted that this summary does not describe every difference, or every detail regarding the differences that are described. Members of the regulated community are advised to read the complete regulations to ensure that they understand all of the requirements with which they will need to comply.

1. More Stringent Provisions

There are aspects of the Massachusetts program which are more stringent than the Federal program. All of these more stringent requirements are part of the federally enforceable RCRA program, and must be complied with in addition to the State requirements which track the minimum Federal requirements. These more stringent requirements include the following:

- Massachusetts does not follow the EPA interpretation allowing Large Quantity Generators and Small Quantity Generators to conduct treatment without permits in accumulation tanks and containers.
- Massachusetts imposes various requirements regarding storage of hazardous wastes by generators which are more stringent than Federal requirements. For example, Massachusetts requires that labels on tanks and containers include identification of the hazardous wastes and the type of hazards associated with the wastes, as well as tracking the Federal requirement that the labels include the words "hazardous waste."
- In addition, Massachusetts specifies record-keeping requirements to document compliance with requirements in some circumstances where the record-keeping is not expressly required under the Federal regulations, *e.g.*, the keeping of an inspection log for container inspections in central storage areas.
- Massachusetts imposes spill containment requirements for container areas (not just for tanks as in the Federal regulations), including a requirement that indoor containers be located on an impervious base and a requirement that outdoor containers have full secondary containment.
- Massachusetts requires security measures and posting of signs at hazardous waste storage areas, in addition to the labeling of individual tanks and containers as required by the Federal regulations.
- Massachusetts does not allow any storage of hazardous wastes in open tanks, whereas the Federal regulations allow such storage except when otherwise required by the 40 CFR parts 264 and 265, subpart CC hazardous air emission rules.
- The Massachusetts satellite storage regulations require containers to be moved from satellite areas to central storage areas within three days of a container being filled, whereas this three-day period begins to run under the Federal regulations only when more than 55 gallons has been accumulated in the satellite area.
- Massachusetts specifies requirements for Very Small Quantity Generators ("VSQGs") (Federal Conditionally Exempt Small Quantity Generators) which go beyond the Federal requirements for conditional exemption. For example, Massachusetts specifies safe storage practices for VSQGs whereas the Federal regulations regarding tank and container storage apply only to Large Quantity Generators ("LQGs") and Small Quantity Generators ("SQGs").
- In addition, Massachusetts prohibits VSQGs from generating or accumulating any acutely hazardous wastes, whereas the Federal regulations allow such generators to accumulate up to one kilogram of such wastes.
- Finally, VSQG hazardous wastes may be sent to municipal solid waste landfills under the Federal program but not under the Massachusetts program.

2. Broader in Scope Provisions

There also are aspects of the Massachusetts program which are broader in scope than the Federal program. The State requirements which are broader in scope are not considered to be part of the Federally enforceable RCRA program. However, they are fully enforceable under State law and must be complied with by sources within Massachusetts. These broader in scope requirements include the following:

- As further discussed in part II, below, Massachusetts designates and regulates as hazardous many recyclable materials not regulated as hazardous wastes under the Federal RCRA program, in addition to regulating those hazardous recyclable materials that are regulated as hazardous wastes in the Federal program.
- Massachusetts regulates both Centers and Events which collect household hazardous wastes and VSQG hazardous wastes. In contrast, household hazardous wastes are not regulated as hazardous wastes under the Federal program even when collected at centers and events. In addition, under the Federal regulations, VSQG hazardous wastes may be sent to facilities authorized by the State to manage such wastes, but there are no Federal regulations specifying the standards to be followed at facilities which are centers and events.

3. Different but Equivalent Provisions

As noted in part I.C. above, there also are various Massachusetts regulations which differ from but have been determined to be equivalent to the Federal regulations. These State regulations which are different from but equivalent to the Federal regulations are part of the Federally enforceable RCRA program. These different but equivalent requirements include the following:

- The Massachusetts regulations regarding satellite storage allow more than one container in a satellite area (so long as there is only one container per waste stream) whereas the Federal regulations contemplate that there will be only one 55 gallon container in each satellite area. Unlike the Federal regulations, however, the State regulations impose requirements to ensure that multiple containers will be stored safely, including aisle spacing requirements, requirements for separation of containers with incompatible wastes and inspection requirements.
- The Massachusetts regulations specify that while hazardous wastes placed into satellite storage must be counted when determining a generator's rate of generation, they need not be counted when determining the amount of hazardous waste stored on site (for purposes of determining whether a generator is a LQG, SQG or VSQG). In contrast, under the Federal regulations, wastes in satellite storage are counted both when determining a generator's rate of generation and when determining the amount of hazardous waste stored on site.
- The Massachusetts regulations contain the same exemption from hazardous waste requirements for certain chromium wastes as is found in the Federal regulations at 40 CFR 261.4(b)(6). However, under the EPA regulation, a generator seeking to claim the exemption for other than specifically listed waste streams must petition the EPA and obtain a determination that its particular wastes are exempt. In contrast, Massachusetts is allowing a generator to make this

determination for itself provided that the generator documents compliance with the criteria listed in the State (and Federal) regulations. Of course, a generator is responsible for making the correct determination, and the EPA encourages generators who have any questions to seek guidance from the MADEP or EPA. Also, an exemption determination made by a generator under the Massachusetts regulations will apply only within Massachusetts. Petitions will need to be filed with any other authorized State to which shipments are made, or with the EPA if shipments are made to a non-authorized State.

• The Massachusetts regulations contain conditional exemptions for bulk scrap metal items as well as smaller particle scrap metal items being recycled, for whole used circuit boards as well as shredded circuit boards being recycled and for certain mixtures of water and unused gasoline being recycled. The Federal regulations similarly exempt these materials, but sometimes under different categories (*e.g.*, whole used circuit boards under the scrap metal category, certain mixtures of water and unused gasoline under the commercial chemical products category).

• Massachusetts allows VSQGs to conduct certain kinds of treatment on site without a permit. The exemption is limited to non-thermal treatment (typically neutralization) of wastes generated on site and is subject to a requirement that the treatment be conducted safely. The Massachusetts program operates somewhat similarly to the EPA interpretation allowing certain kinds of treatment in accumulation tanks and containers without permits, by LQGs and SQGs. However, Massachusetts allows treatment without permits only by VSQGs, whereas the EPA interpretation instead allows it by LQGs and SQGs. Also, the EPA interpretation allows treatment only within accumulation tanks and containers, whereas the Massachusetts regulation allows treatment in non-accumulation containers (*e.g.*, laboratory containers) at the site where the waste was generated, provided of course that this can be done safely.

• The Massachusetts regulations require that secondary containment systems for outdoor above-ground tanks must have a capacity at least equal to 110% of the volume of the largest tank. This requirement is designed to take the place of the Federal requirement (in 40 CFR 265.193(e)) that such containment systems must have a capacity at least equal to 100% of the volume of the largest tank plus sufficient capacity to contain precipitation from a 25 year, 24 hour storm. The Massachusetts regulations generally track the Federal requirements regarding secondary containment requirements for underground tanks. The Massachusetts regulations have been amended to require secondary containment for indoor above-ground tanks with a capacity at least equal to 100% of the volume of the largest tank (the Federal standard).

• The Massachusetts regulations specify standards for when tanks will be considered "empty." The EPA regulations specify such standards only for containers, while specifying that tanks must be decontaminated before being disposed or reused. It should be noted that the State's empty tank standard for non-acute wastes is more stringent than the State (and Federal) empty container standard, *i.e.*, it does not allow waste residues to be left in tanks. The State standards will operate similarly to the tank decontamination requirement in the Federal regulations, but the State regulations clarify that generators may be able to determine that tanks are "empty" based on knowledge of the waste (*e.g.*, knowledge that there has been appropriate thorough cleaning of the tanks), without needing to do TCLP testing in every case.

E. What Will Be the Effect of the Authorization Decision?

The effect of the authorization decision will be that entities in Massachusetts subject to RCRA will need to comply with the authorized State requirements instead of the Federal requirements, with respect to the matters covered by the authorized State requirements, in order to comply with RCRA. However, until the authorized Massachusetts program is brought fully up to date, there will continue to be a dual state/Federal RCRA program in Massachusetts. RCRA was amended by the Hazardous and Solid Waste Amendments ("HSWA") in 1984. Section 3006(g) of RCRA, 42 U.S.C. 6906(g), provides that when the EPA promulgates new regulatory requirements pursuant to HSWA, the EPA shall directly carry out these requirements in states authorized to administer the underlying hazardous waste program, until the states are authorized to administer these new requirements. The EPA has established various new regulatory requirements pursuant to HSWA which have not yet been authorized to be administered by Massachusetts. There also are various self-implementing requirements directly established by the HSWA statutory amendments themselves. Regulated entities must comply with these HSWA requirements as set out in the Federal regulations and statute in addition to authorized State program requirements. The HSWA requirements that will continue to be administered by the EPA in Massachusetts include all of the Land Disposal Restriction ("LDR") requirements set out in 40 CFR part 268 (including requirements adopted prior to July 1, 1990), the Corrective Action requirements referenced in 40 CFR 264.101, and the hazardous air emission standards set out in 40 CFR parts 264 and 265, subparts AA, BB and CC. A complete list of HSWA requirements is set out in 40 CFR 271.1, Tables 1 and 2.

With respect to TSDF permitting, Massachusetts will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits it has issued. The EPA also will continue to issue permits or portions of permits covering HSWA requirements for which Massachusetts is not authorized. In addition, the EPA will continue to implement the provisions of 40 CFR 264.1(f)(2) within Massachusetts. That provision specifies that TSDFs must comply with any standards promulgated by the EPA (HSWA or non-HSWA) after a State is authorized, until the State obtains authorization to issue permits covering such newly promulgated standards. The major effect of this provision in Massachusetts is that the EPA will remain responsible for issuing permits for Miscellaneous Units, since the EPA promulgated the Miscellaneous Unit standards in 40 CFR part 264, subpart X after the initial authorization of the Massachusetts base program, and since Massachusetts has not yet applied for and is not now being authorized to carry out these requirements.

Massachusetts is not authorized to carry out its hazardous waste program in Indian country within the State (land of the Wampanoag tribe). Today's action will have no effect on Indian country. The EPA will continue to implement and administer the RCRA program in these lands.

The EPA is authorizing but not codifying the enumerated revisions to the Massachusetts program. Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, subpart W for the codification of the

Massachusetts' program until a later date.

F. Response to Public Comments

The EPA received one comment generally supporting the authorization of the updated State regulations. A second commenter took no position on the authorization, but suggested that the EPA make a minor revision to the description of the federal Satellite accumulation regulations contained in the proposed rulemaking notice. Specifically, in the second bulleted item in part I.D.3. of the proposed rulemaking notice, Region I indicated that under the federal regulations, when a container is moved from a Satellite accumulation area to a central storage area, the time allowed for central storage begins to run when the container is required to be moved, which can be up to three days before the container is actually moved. The commenter pointed out that EPA's Office of Solid Waste has issued a more liberal interpretation of the federal regulations, stating that the time allowed for central storage begins to run only when the container is moved (provided of course that the container is moved within the three-day period). *See* RCRA/Superfund Hotline Monthly Summary, October 1990 (Faxback 13410). To avoid confusion, the Region has dropped its prior description of this federal Satellite accumulation requirement from today's final rulemaking notice. The Region plans to follow the OSW interpretation when applying the federal regulations.

This change has no effect on the interpretation of the Massachusetts regulations being authorized. In the proposed rulemaking notice, the Region correctly described the State regulations as specifying that the time allowed for central storage begins to run when a container is moved (within the three-day period).

II. State-Specific Modification to Federal Hazardous Waste Regulations, Pursuant to ECOS Program Proposal, To Enable EPA To Authorize Certain Portions of the Massachusetts Revisions; Resulting Authorization of Massachusetts Recyclable Materials Regulations

A. What Massachusetts Regulations Are Being Authorized?

In 1986, the MADEP adopted regulations to comprehensively regulate hazardous recyclable materials, under provisions separate from those governing hazardous wastes planned to be disposed. These regulations are found in 310 CMR 30.200. In the Federal RCRA program, some hazardous recyclable materials are not considered to be hazardous wastes and thus are exempt from hazardous waste regulation (*e.g.*, sludges and byproducts exhibiting a characteristic of hazardous waste and being reclaimed) whereas other hazardous recyclable materials are considered to be hazardous wastes and are subject to regulation including all of the usually applicable hazardous waste generator regulations (*e.g.*, spent materials, listed sludges and listed byproducts being reclaimed). In contrast, the State regulations cover virtually all hazardous recyclable materials under some level of regulation. However, based on the perceived level of risk, different recyclable materials are subject to different levels of regulation, from the least regulated Class A to the most regulated Class C.

Initially, the State's Class A regulations applied only to recyclable materials that are exempt from Federal regulation. Thus the State was not required to seek Federal authorization for these regulations. In 1995, however, the MADEP expanded the Class A category to include many recyclable materials that are recycled at the site of generation. Under the State regulations, these Class A recyclable materials must be recycled in a recycling system that is completely enclosed, but may be stored in tanks or containers prior to being recycled, without the entire storage to recycling process being completely enclosed. Thus the Class A regulations now apply to certain federally regulated hazardous wastes that are recycled on site by generators, namely those hazardous recyclable materials that are spent materials, listed sludges and listed byproducts, that are accumulated or stored on site before being recycled, and that are recycled through a process that does not meet all of the conditions for Federal exemption as a completely enclosed recycling process set out in 40 CFR 261.4(a)(8). In particular, the Class A regulations apply to Federally regulated recyclable materials currently being stored by about 136 generators with stand alone solvent stills/distillation units and to Federally regulated recyclable materials currently being stored by about 40 generators with stand alone silver recovery units.

The EPA is today authorizing the State's Class A regulations insofar as they apply to the storage of recyclable materials by generators with stand alone solvent stills/distillation units, generators with stand alone silver recovery units, and any other generators who may store Federally regulated recyclable materials subject to the Class A regulations in the future (*i.e.*, generators referenced by 310 CMR 30.212(10)). These Class A regulations are now part of the federally approved and enforceable State base program generator requirements.

It should be noted that the State has just revised its Class A regulations (as part of its recent update), and it is the revised Class A regulations which the EPA is authorizing. With respect to the Class A program, there are no substantive differences between the final State regulations being authorized by the EPA today and the proposed State regulations that were proposed to be approved by the EPA on October 21, 2003.

Today's authorization does not cover the Class A regulations insofar as they apply to the Federally exempt recyclable materials referenced by 310 CMR 30.212(1) through (7), as the regulation of these recyclable materials is beyond the scope of the Federal RCRA program. The authorization also does not cover the Class A regulations insofar as they apply to waste oil and specification used fuel oil as referenced by 310 CMR 30.212 (8)—(9), since the MADEP has not yet applied to be authorized for the Federal RCRA Used Oil program (established in 40 CFR part 279). Finally, the authorization does not cover the State's Class B and Class C regulations, since the MADEP has not yet applied to be authorized for these regulations (which generally relate to off-site non-generator recycling).

B. Why is the EPA Making a Federal Regulation Change?

The EPA has reviewed the Massachusetts Class A regulations and determined that they do not meet particular requirements for State authorization set out in the current EPA regulations. However, the EPA also has determined that the Massachusetts Class A regulations meet the RCRA statutory test of protecting human health and the environment and are at least as environmentally protective overall as the Federal program. Thus the EPA is making a State-specific Federal regulation change to allow authorization of the Massachusetts Class A regulations.

1. Differences in the State Class A Regulations Which Preclude a Standard Authorization

In comparison with the EPA regulations applicable to storage of hazardous wastes by generators, the Class A regulations regarding storage of hazardous recyclable materials by generators differ with respect to various details. For example, under the Federal regulations, storage of hazardous wastes

without TSDF permits by LQGs and SQGs generally is limited to 90 and 180 days, respectively. In contrast, the Class A regulations allow recyclable materials to be stored pending recycling so long as there is no "speculative accumulation." This typically allows storage times without TSDF permits of a year or longer. The EPA regulations on State authorization specify that, "[s]tate law must require [TSDF] permits for owners and operators of all hazardous waste management facilities required to obtain permits under 40 CFR part 270 . . ." 40 CFR 271.13(a). By allowing generator storage times without TSDF permits longer than the Federal regulations, the Class A regulations do not comply with this current EPA requirement for State authorization.

In addition, the Class A regulations impose requirements regarding storage of recyclable materials by generators which are quite different from the Federal regulations in 40 CFR part 262 regarding generator storage. In place of the Federal categories of LQG, SQG and CESQG (Massachusetts VSQG), the Class A regulations establish a dual status system. Generators are classified as LQGs or SQGs or VSQGs with respect to wastes to be shipped off-site based on the amount of such wastes to be shipped off-site. Generators are separately classified and regulated with respect to Class A recyclable materials based on the amounts of such materials (and are placed in either a merged LQG/SQG category or a VSQG category for that purpose). The resulting differences between the State and Federal regulations are fully described in a EPA memorandum dated July 8, 2002 entitled "Massachusetts RCRA Program Update: Issues Regarding Regulation of Recyclable Materials Reclaimed by Generators on Site." The differences include that the State does not count Class A recyclable materials in determining generator status (for wastes to be shipped off-site), resulting in some sources which would be LQGs under the Federal program instead being regulated in a lesser-regulated generator category. In addition, for sources which remain LQGs (notwithstanding the difference regarding counting), the usual LQG requirements regarding contingency planning and training do not apply to the parts of the generator's site handling the Class A hazardous recyclable materials. Rather, with respect to these recyclable materials, such generators are instead subject to the less formal and detailed Class A requirements regarding emergency planning and training.

The EPA is committed to reexamining the extent of flexibility that should be employed when reviewing State RCRA programs. In connection with another part of Massachusetts' ECOS program proposal, the EPA has created a Work Group of EPA and State personnel to examine authorization issues. Without waiting for the results of this effort, the EPA nevertheless has employed some flexibility consistent with its current regulations in reviewing the Massachusetts RCRA program update, as indicated by its approval of some Massachusetts provisions which differ from Federal provisions, discussed in part I.D. above. However, the differences between the Massachusetts Class A regulations and the EPA generator storage regulations are greater than those discussed in part I.D., and a standard authorization of the Class A regulations is precluded under the current EPA State authorization regulations by, for example, the difference regarding when TSDF permits are required. Thus the EPA is not approving the Massachusetts Class A regulations as a standard authorization.

2. Justification for Making a Change to the Federal Regulations to Allow the Authorization

The EPA was persuaded to make a State-specific regulation change to its Federal regulations to enable the authorization of the Class A regulations, based on the following reasons. The Massachusetts program comprehensively regulates hazardous wastes that are recycled on site by generators, and has operated successfully for many years. The State regulations contain incentives that encourage recycling (*e.g.*, lower fees for generators which recycle). In its ECOS project application, the MADEP reported that as of 1999, over 490,000 tons of wastes were recycled under its program, as opposed to 90,000 tons of hazardous wastes that were disposed. Basic requirements are in place in the State's recycling program, including the requirement to do waste determinations, the requirement to obtain hazardous waste i.d. numbers (except for VSQGs) and safe handling requirements. While less stringent with respect to certain details, the Massachusetts program is at least as stringent as the Federal program overall. In particular, the Massachusetts program regulates a broader universe of hazardous recyclable materials than are regulated in the Federal program. Even if the focus is limited to Federally regulated wastes, the Massachusetts program is as stringent as the Federal program overall. It regulates the recycling process itself as well as prior hazardous waste storage, unlike the Federal program which regulates only the storage. Finally, some of the State's more stringent storage requirements (described in part I.D. above), have been applied to the storage of Class A materials, including additional labeling requirements and the prohibition of the use of open tanks.

Thus the Massachusetts Class A regulations meet the RCRA statutory test of protecting human health and the environment, and constitute an acceptable alternative approach (to regulating hazardous recyclable materials) to the approach currently set forth in the Federal regulations. In addition, the EPA recently announced that it is planning to propose a change to its regulations to revise the Federal RCRA regulatory requirements with respect to recyclable materials that remain in use in a continuous industrial process. 49 FR 11251 (March 13, 2002). This is a part of the EPA's response to the court's decision in *Association of Battery Recyclers* v. *EPA*, 208 F.3d 1047 (D.C.Cir. 2000) *("ABR")*, which set aside a portion of an EPA regulation regarding mineral processing industry recyclable materials. If the EPA ultimately adopts a regulation exempting recyclable materials used in a continuous industrial process from Federal RCRA regulation, this exemption is likely to cover at least most Class A recyclable materials.

The EPA does not believe that in light of the *ABR* decision, it should determine now that all Class A materials are not subject to Federal regulation, and thus conclude that the Class A regulations create no authorization issues. Such a result is not compelled by the court's decision and would prejudge the EPA's anticipated general rulemaking process. However, the fact that the EPA is planning to move in the direction of reducing regulation regarding recyclable materials is an additional reason counseling in favor of authorizing the State's program regarding Class A recyclable materials under the authority of a special EPA regulation. As mentioned above, the State's Class A program has operated successfully for many years. Requiring the State to now change that program to track EPA requirements does not make sense in the particular circumstances, including the EPA's announced intention to soon change the requirements.

The EPA is making the State-specific change to its Federal regulations pursuant to a proposal for flexibility submitted by the MADEP under the ECOS program. Under the Joint EPA/State Agreement to Pursue Regulatory Innovation, the EPA agreed to entertain

State proposals for flexibility in an agreement entered into between the EPA and the Environmental Council of States. *See* 63 FR 24784 (May 5, 1998). As specified in that agreement, the EPA may accept State proposals to follow alternative regulatory requirements when (as here) the alternative requirements provide at least an equivalent overall level of environmental protection as the standard EPA mandated requirements.

C. What Is the Regulation Change?

The change to the Federal regulations which is enabling the EPA to grant the requested flexibility is set out at the end of this document. The EPA is amending 40 CFR 262.10 to add a paragraph (k), which specifies that generators within Massachusetts may comply with the Class A regulations, when authorized, with respect to the recyclable materials and matters covered by the authorization, instead of complying with certain standard EPA regulations. This new regulation is taking effect immediately upon today's publication in the **Federal Register**. Having the regulation take effect immediately is justified under RCRA section 3010(b), 42 U.S.C. 6930(b) and under the Administrative Procedures Act, 5 U.S.C. 553(d), since this new regulation allows the EPA to authorize a long-standing State program and the regulated community does not need any further time to come into compliance with that State program. The EPA Administrator has delegated one-time authority to the Regional Administrator, EPA New England, to make this regulation change.

D. What Will be the Effect of the Federal Regulation Change?

The change to the Federal regulations is enabling the EPA to today authorize the Massachusetts regulations, since the Federal regulations now specify that the State regulations contain acceptable alternative standards for Massachusetts. The State regulations are equivalent to, consistent with and no less stringent than these acceptable alternative standards. Allowing the alternative standards is justified for the reasons discussed in part II.B, above. In particular, the EPA has determined that the alternative program protects human health and the environment and is at least as stringent overall as the standard EPA RCRA program. The EPA believes that it has the authority to approve this alternative program under the RCRA statute.

However, the change to the Federal regulations does not itself result in any change to the legal requirements applicable to generators in Massachusetts. Rather, generators became subject to the revised Class A requirements under State law following their recent adoption in final form by the MADEP. These requirements are in turn becoming part of the Federally enforceable RCRA program upon being authorized by the EPA today. For the sake of efficiency, the EPA is both making the Federal regulation change and authorizing the State regulations in this same rulemaking today. Thus in this particular case, the State requirements are becoming authorized and federally enforceable at the same time as the Federal regulation change.

Under section 3006 of RCRA, the EPA may authorize a qualified State to administer and enforce a hazardous waste program within the State. (*See* 40 CFR part 271 for the requirements for authorization). States with final authorization administer their own hazardous waste programs in lieu of the Federal program. Following authorization, the EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013 and 7003.

After authorization, Federal rules written under RCRA provisions which predate the Hazardous and Solid Waste Amendments of 1984 (HSWA) no longer apply in the authorized state. Rather, the authorized State regulations apply in lieu of such Federal requirements. In addition, new Federal requirements imposed by such rules do not take effect in an authorized state until the state adopts the requirements.

In contrast, under section 3006(g) of RCRA, new requirements and prohibitions imposed by HSWA take effect in authorized states at the same time that they take effect in non-authorized states. The EPA is directed to carry out HSWA requirements and prohibitions in authorized states until the state is granted authorization to do so.

Today's federal regulation change is promulgated pursuant to non-HSWA authority. Thus, as explained above, the alternative standards contemplated by the rule took effect in Massachusetts following adoption by Massachusetts and are becoming Federally enforceable upon being authorized by the EPA today. They now apply in lieu of the EPA program with respect to the recyclable materials and matters covered by the authorization. For example, generators storing solvents for recycling in stand alone stills/distillation may store such solvents without permits for more than the 90 or 180 days set out in the Federal regulations, so long as they do not engage in "speculative accumulation."

Of course, generators still will need to comply with any other applicable RCRA requirements in addition to the Class A requirements. For example, generators storing some wastes for recycling and other wastes for disposal will need to comply with the authorized State requirements regarding wastes being stored for disposal with respect to those other wastes. In addition, generators will need to comply with any applicable Federal requirements which are being directly implemented by the EPA within Massachusetts pursuant to HSWA, *i.e.*, all HSWA requirements for which the State has not yet been authorized.

In particular, the State has not yet been authorized for and the EPA is continuing to administer within Massachusetts the air emission standards for tanks and containers set out in 40 CFR part 265, subpart CC ("CC regulations"). These regulations are applicable to many large quantity generators storing solvents, among others. Following today's authorization of the Class A regulations, the EPA plans to administer and enforce these CC regulations within Massachusetts as follows. First, only generators which are classified as large quantity generators under the State regulations will be considered subject to the CC regulations. That is, the EPA will utilize the Massachusetts counting rules when administering the CC rule within Massachusetts. This will avoid generators needing to do two separate State and Federal status calculations. Second, however, any generators which are classified as large quantity generators under the State regulations with respect to any part of their site will be subject to the CC regulations throughout their sites. Large quantity generators storing solvents will need to comply with all applicable requirements imposed by the CC regulations, whether the solvents are being stored for disposal or recycling. That is, the EPA will not utilize the Massachusetts dual status concept when administering the CC rule within Massachusetts. The EPA expects that any generator which is a LQG will take the steps required under the CC rule to prevent hazardous air emissions, just as such generators are subject to all applicable Clean Air Act requirements whether they dispose of their wastes or recycle.

E. For How Long Will the Authorization Continue?

Unlike the authorization of the Labs XL project regulations discussed in part III below, today's authorization of the Massachusetts ECOS project regulations will continue indefinitely. The EPA believes this is justified based on the

long successful operation of the Massachusetts Class A program, *i.e.*, no further assessment is necessary prior to the permanent authorization of this RCRA program element. Of course, like any other authorized program element, the Massachusetts Class A program will be subject to EPA oversight and possible future revision. But absent future EPA action to modify or rescind the action, the authorization will continue.

If the EPA issues future final regulations changing the status of recyclable materials used in a continuous industrial process under Federal RCRA regulation, portions of the Massachusetts Class A program now being authorized could then become beyond the scope of Federal regulation. If and when any revised national regulations take effect, the EPA will then address, in connection with a later update of the Massachusetts RCRA program, the effect of the national regulations on the Massachusetts program.

F. Response to Public Comments

The EPA received one comment supporting the authorization of the State's Class A program. No comments were filed opposing authorization of the program.

III. Extension of Site-Specific Regulations for New England Universities' Laboratories XL Project To Enable EPA To Authorize Certain Portions of the Massachusetts Revisions; Authorization of Massachusetts XL Project Regulations

A. What Is the New England Universities' Laboratories XL Project?

Project XL—"eXcellence and Leadership" was announced in May 1995 as a part of the National Performance Review and the EPA's effort to reinvent environmental protection. *See* 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current standard regulations and reasonably anticipated future regulations.

One of the projects that has been approved under Project XL is the New England Universities' Laboratories project. A Project XL proposal that the EPA exercise flexibility under RCRA was developed for the University of Massachusetts—Boston, Boston, MA, Boston College, Chestnut Hill, MA, and the University of Vermont, Burlington, VT (the "participating universities"). A Final Project Agreement approving the proposal was signed by the EPA, the participating universities, the MADEP and the Vermont Department of Environmental Conservation, on September 28, 1999. Pursuant to that agreement, the participating universities have been allowed to comply with Environmental Management Plans (EMPs) covering their laboratories in place of certain standard requirements for hazardous waste generators, during a trial period. In order to allow this experiment, the EPA adopted special regulations during 1999 which are set forth in 40 CFR 262.10(j) and 40 CFR 262.100–108. *See* 64 FR 52380 (September 28, 1999) (final rulemaking) and 64 FR 40696 (July 27, 1999) (proposed rulemaking). The reasons for approving the special EPA regulations are fully set forth in those rulemaking notices and will not be repeated here. Like the special regulation discussed in part II above in connection with the proposed ECOS project, the special EPA regulations were designed to enable the EPA to authorize State regulations that are different from the standard EPA regulations. Also like the ECOS project, the actual implementation of the XL project requires the adoption, and Federal authorization, of State regulations.

Following the adoption of EPA's special Project XL regulations, both Massachusetts and Vermont adopted regulations setting alternative standards for laboratories at the participating universities. The Vermont regulations were authorized by the EPA and became part of the Federally enforceable Vermont RCRA program on October 26, 2000. *See* 65 FR 64164. The Massachusetts regulations are in effect under State law and recently were submitted to the EPA to be authorized as part of the current update of the Massachusetts RCRA program.

B. Why Is the EPA Extending the Expiration Date of Its XL Project Regulations?

The New England Universities' Laboratories XL project was initially planned to run for four years (September 1999 through September 2003). Thus the EPA project regulations had an expiration date of September 30, 2003. *See* 40 CFR 262.108.

The EPA conducted a mid-term evaluation of the project between September 2001 and September 2002. As set out in the mid-term evaluation report, the project has shown great success in some important areas: developing EMPs, training staff, increasing awareness, shifting attitudes and behaviors, improving the range of activities that determine compliance and emergency preparedness, and demonstrating that the environmental management system approach to managing laboratory waste is gaining hold and making progress. *See* Project in Excellence and Leadership: New England Universities' Laboratories Mid-Term Evaluation: Piloting Superior Environmental Performance in Labs, EPA 100–R–02–005 (September 2002), page 5. On the other hand, the project has not to date shown the expected successes in other areas such as chemical reuse and redistribution and pollution prevention. *Id.* The implementation of the EMPs proved to be complex, and took somewhat longer than anticipated, resulting in delays in aggressively focusing on reuse, redistribution and pollution prevention. However, efforts to encourage pollution prevention and "Green Chemistry" practices have begun to be more widely endorsed by faculty, and the EPA hopes and expects that they will bear fruit in the next several years.

Taking account of both the progress that has been made and the remaining issues, the EPA (with the concurrence of the MADEP and VTDEC) believes that the appropriate course of action is to extend the project's expiration date by three years, *i.e.*, to September 30, 2006. This will allow for a further period of evaluation, including a further test of whether the universities will succeed in their efforts to implement significant chemical reuse and redistribution and pollution prevention. In light of the success that has occurred in EMP development and implementation, the EPA believes that the continuation of this project should provide a superior level of environmental performance in comparison to an immediate return to standard RCRA regulation.

In addition, the EPA Office of Solid Waste currently is analyzing issues regarding the management of hazardous waste in laboratories, using a discussion group of EPA Headquarters and Regional personnel, and stakeholder meetings. This process may result in changes to the EPA requirements or the way the EPA interprets its requirements regarding laboratories. The proposed three-year extension of the New England Universities' Laboratories XL project will allow the three participating universities to continue to follow the alternative project requirements while the EPA considers whether to make changes in national policy. This will avoid those universities needing to terminate the project, prior to the EPA having a chance to consider whether standard RCRA requirements applicable

to university laboratories should be changed. The continuation of the project also should provide information that is useful to the EPA as it analyzes the potential national impact of making changes regarding the management of hazardous waste in laboratories.

C. What Is the Federal Regulation Change?

The Federal regulation change is extending the expiration date in 40 CFR 262.108 from September 30, 2003 to September 30, 2006. The other special EPA regulations adopted to allow the implementation of the New England Universities' Laboratories XL project are staying the same. The regulation change is set out at the end of this document. This regulation change is taking effect immediately upon today's publication in the **Federal Register**. Having the regulation take effect immediately is justified under RCRA section 3010(b), 42 U.S.C. 6930(b) and under the Administrative Procedures Act, 5 U.S.C. 553(d), since this regulation change simply allows the EPA to extend an ongoing XL project and the regulated entities involved in the project do not need any further time to come into compliance with the requirements of this project. The EPA Administrator has delegated one-time authority to the Regional Administrator, EPA New England, to make this regulation change.

As part of its recent update, Massachusetts has similarly changed its State regulations to extend the expiration date of this XL project to September 30, 2006. The EPA and other signatories also are amending the Final Project Agreement for this XL project to extend the expiration date, with annual reporting obligations also being extended and all other provisions of the agreement remaining the same.

D. What Will Be the Effect of the Federal Regulation Change?

The change to the Federal regulations is enabling the EPA to today authorize the Massachusetts regulations governing the New England Universities' Laboratories XL project, through September 30, 2006. The State regulations (310 CMR 30.354) have been submitted to the EPA to be authorized as part of this current update of the Massachusetts RCRA program. The EPA is granting this authorization to run through September 30, 2006.

The different effects of authorization regarding HSWA and non-HSWA rules was discussed above in part II.D. The extension to the Federal XL project regulation is being promulgated pursuant to non-HSWA authority. Thus, the extension took effect in under State law following its recent adoption by Massachusetts, and the requirements of the alternative XL program are becoming Federally enforceable today, through September 30, 2006, with respect to the two universities in Massachusetts, due to today's authorization of the State regulations by the EPA.

E. Response to Public Comments

The EPA received one comment supporting the extension of the XL project. No comments were filed opposing extension of the project or authorization of this program element.

IV. Statutory and Executive Order Reviews

The EPA has examined the cumulative effects of the State authorization decisions discussed above, and the two changes to the Federal regulations, and reached the conclusions set out below.

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely effect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of these actions will be significantly less than $100 million and because these actions will not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a "significant regulatory action" under the terms of the Executive Order and is therefore not subject to OMB review.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or final rule. These actions authorize or enable the authorization of state requirements for the purpose of RCRA 3006 and impose no additional requirements beyond those imposed by State law. Therefore, they require no information collection activities subject to the Paperwork Reduction Act. In addition, no Federal reporting obligations have been established under the ECOS project. Rather, the EPA will monitor this project through its regular oversight of the Massachusetts RCRA program. Finally, the New England Universities' Laboratories XL project applies to only three universities, and any reporting obligations for nine or fewer sources are not subject to the Paperwork Reduction Act. Therefore no information collection request (ICR) was submitted to OMB for review under the Paperwork Reduction Act.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking under the Administrative Procedure Act or other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

These actions authorize or enable the authorization of state requirements for the purpose of RCRA 3006 and impose no additional requirements beyond those imposed by state law. In addition, the two Federal regulatory changes will increase regulatory flexibility, which should have a positive economic effect on small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, the impact of concern is any significant adverse economic impact, since the primary purpose of any regulatory flexibility analysis would be to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or

otherwise has a positive economic effect on all of the small entities subject to the rule. Accordingly, the EPA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Thus a regulatory flexibility analysis is not required to be prepared under that Act.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating a EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. In addition, before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments about the regulatory requirements, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the section 202 and 205 requirements do not apply to this action because the rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local or tribal governments and the private sector already exist under the State program, and the actions will not impose any additional obligations on regulated entities. In fact, the EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector, by reducing the need for companies to comply with Federal requirements in addition to State requirements. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not cover duties arising from voluntary participation in a Federal program, such as Massachusetts' voluntary decision to operate the RCRA program.

Because this action will authorize pre-existing requirements under state law and will not impose any additional enforceable duties beyond those required by state law, it also will not uniquely affect small governments, as described in section 203 of UMRA. Thus the requirements of section 203 that the EPA develop a small government agency plan will not apply to this rule.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The actions will not have Federalism implications, as defined in the Executive Order, because they merely authorize (or enable the authorization of) state requirements as part of the State RCRA hazardous waste program, without altering the relationship or the distribution of power and responsibilities established by RCRA.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires the EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and the Indian tribes."

The actions will not have tribal implications, as defined by the Executive Order, because they will have no direct effect on Indian lands. As noted in Part I.E. above, Massachusetts is not authorized to administer the RCRA program in Indian country. Rather, the EPA directly administers the Federal RCRA program in Indian country within Massachusetts.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866. In addition, it does not concern environmental health or safety risks that the EPA has reason to believe may have a disproportionate effect on children.

As discussed in parts II and III above, the EPA has determined that the regulatory flexibility to be allowed by the two Federal regulatory changes will not create health and safety risks. In any event, the particular RCRA program elements affected do not pose any disproportionate risks to children. As discussed in part I above, the standard authorization portion of this rule simply authorizes Massachusetts regulations which are equivalent to previously established Federal RCRA requirements. Authorizing State regulations which equivalently protect the environment, in place of Federal regulations, does not create any disproportionate risks to children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 because that Executive Order applies only to rules that are "significant" under Executive Order 12866, and this rule is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 *note*) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards covered by voluntary consensus standards. In addition, under RCRA section 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required under RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that satisfies the requirements of RCRA. Therefore, the EPA did not consider the use of any voluntary consensus standards in developing this rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA is submitting a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined in 5 U.S.C. 804(2). This action will be effective immediately upon today's publication in the **Federal Register**.

List of Subjects

40 CFR Part 262

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous materials transportation, Indian-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: The Federal regulation changes are being made under the authority of the Resource Conservation and Recovery Act (RCRA) sections 2002 and 3002, 42 U.S.C. 6912 and 6922. The authorizations of the Massachusetts revisions are being made under the authority of RCRA sections 2002 and 3006, 42 U.S.C. 6912 and 6926.

Dated: March 3, 2004.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

■ For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

Subpart A—General

■ 2. Section 262.10 is amended by adding paragraph (k) to read as follows:

§ 262.10 Purpose, scope and applicability.

* * * * *

(k) Generators in the Commonwealth of Massachusetts may comply with the State regulations regarding Class A recyclable materials in 310 C.M.R. 30.200, when authorized by the EPA under 40 CFR part 271, with respect to those recyclable materials and matters covered by the authorization, instead of complying with the hazardous waste accumulation requirements of § 262.34, the reporting requirements of § 262.41, the storage facility operator requirements of 40 CFR parts 264 and 265 and the permitting requirements of 40 CFR part 270. Such generators must also comply with any other applicable requirements, including any applicable authorized State regulations governing hazardous wastes not being recycled and any applicable Federal requirements which are being directly implemented by the EPA within Massachusetts pursuant to the Hazardous and Solid Waste Amendments of 1984.

Subpart J—University Laboratories XL Project—Laboratory Environmental Management Standard

■ 3. Section 262.108 is revised to read as follows:

§ 262.108 When will this subpart expire?

This subpart will expire on September 30, 2006.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

■ EPA is granting Final authorization under part 271 to the Commonwealth of Massachusetts for revisions to its hazardous waste program under the Resource Conservation and Recovery Act.

[FR Doc. 04–5644 Filed 3–11–04; 8:45 am]

BILLING CODE 6560–50–P

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

45 CFR Part 2400

Fellowship Program Requirements

AGENCY: James Madison Fellowship Foundation.

ACTION: Final rule.

SUMMARY: The following are amendments to the regulations governing the annual competition for James Madison Fellowships and the obligations of James Madison Fellows. These amendments update and replace certain provisions of the Foundation's existing regulations as implemented by the James Madison Memorial Fellowship Act of 1986. These revised regulations govern the qualifications and applications of candidates for fellowships; the selection of Fellows by the Foundation; the graduate programs Fellows must pursue; the terms and conditions attached to awards; the Foundation's annual Summer Institute on the Constitution; and related requirements and expectations regarding fellowships. No comments were received regarding this new rule.

DATES: This rule is effective March 12, 2004.

SUPPLEMENTARY INFORMATION: The reason for the changes to the Foundation's regulations comes as a result of the Foundation's desire to clarify several of the rules and regulations that James Madison Fellows must observe when accepting their fellowships. Although many of the changes are minor insertions of words and punctuation, this document specifically expands the definition section to include further detailed definitions on Credit Hour Equivalent, Incomplete, Repayment, Satisfactory Progress, Stipend, Teaching Obligation, Termination and Withdrawal. The Foundation now encourages James Madison Fellows to choose a graduate program which does not include the writing of a thesis. Graduate programs for which Fellows may apply have been broadened to include political science. Finally, a section entitled "Teaching Obligation" was added to further clarify the obligation to teach, required by the Foundation once each fellow has earned a master's degree.

Regulatory Flexibility Act Certification

The President certifies that these regulations would not have a significant economic impact on a substantial number of small entities.

These regulations apply to individuals eligible to apply for fellowship assistance. Individuals are not included in the definition of "small entities" in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

List of Subjects in 45 CFR Part 2400

Education, Fellowships.

Dated: March 8, 2004.

Paul A. Yost, Jr.

President.

■ For the reasons set forth in the preamble and under authority of 20 U.S.C. 4501 *et seq.*, chapter XXIV, title 45 of the Code of Federal Regulations is amended by amending part 2400 as follows:

PART 2400—FELLOWSHIP PROGRAM REQUIREMENTS

■ 1. The authority citation for part 2400 is revised to read as follows:

Authority: 20 U.S.C. 4501 *et seq.*, unless otherwise noted.

■ 2. Section 2400.3 is amended by revising paragraphs (a)(8) and (b)(8) to read as follows:

§ 2400.3 Eligibility.

* * * * *

(a)* * *

(8) Sign agreements that, after completing the education for which the fellowship is awarded, they will teach American history, American government, social studies, or political science full time in secondary schools for a period of not less than one year for each full year of study for which assistance was received, preferably in the State listed as their legal residence at the time of their fellowship award. For the purposes of this provision, a full academic year of study is considered by the Foundation to be 18 credit hours or 27 quarter hours. Fellows' teaching obligations will be figured at full academic years of study; and when Fellows have studies for partial academic years, those years will be rounded upward to the nearest one-half year to determine Fellows' total teaching obligations.

(b)* * *

(8) Sign an agreement that, after completing the education for which the fellowship is awarded, they will teach American history, American government, social studies, or political science full time in secondary schools for a period of not less than one year for each full academic year of study for which assistance was received, preferably in the State listed as their legal residence at the time of their fellowship award. Fellows' teaching obligations will be figured at full academic years of study; and when Fellows have studies for partial academic years, those years will be rounded upward to the nearest one-half year to determine Fellows' total teaching obligations.

■ 3. Section 2400.4 is amended by revising the definitions of "*Full-time study*," "*State*," and "*Stipend*," to read as follows:

§ 2400.4 Definitions.

* * * * *

Full-time study means study for an enrolled student who is carrying at least 9 credit hours a semester or its equivalent.

* * * * *

State means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Stipend means the amount paid by the Foundation to a Fellow or on his or her behalf for the allowable costs of graduate study which have been approved under the fellowship.

* * * * *

■ 4. Section 2400.20 is revised to read as follows:

§ 2400.20 Preparation of application.

Applications, on forms mailed directly by the Foundation to those who request applications or downloaded from the Foundation's Web site, must be completed by all fellowship candidates in order that they be considered for an award.

■ 5. Section 2400.30 is amended by adding a new paragraph (g) to read as follows:

§ 2400.30 Selection criteria.

* * * * *

(g) Content of the 600-word essay.

§ 2400.31 [Amended]

■ 6. In § 2400.31, paragraph (b) is amended by removing the word "legally" and adding, in its place, the word "legal"; and paragraph (c) is amended by removing the words "An alternate will receive" and adding, in their place, "An alternate may, at the Foundation's discretion, receive".

§ 2400.42 [Amended]

■ 7. In § 2400.42, paragraph (b) is amended by removing the word "constitution" and adding, in its place, the word "Constitution".

§ 2400.43 [Amended]

■ 8. In § 2400.43, paragraph (c) is amended by removing the words "strongly encourages" and adding, in their place, the words "in general, requires".

■ 9. Section 2400.44 is amended by revising paragraph (a) to read as follows:

§ 2400.44 Commencement of graduate study.

(a) Fellows may commence study under their fellowships as early as the summer following the announcement of their award. Fellows are normally expected to commence study under their fellowships in the fall term of the academic year following the date on which their award is announced. However, as indicated in § 2400.61, they may seek to postpone the commencement of fellowship study for up to one year under extenuating circumstances.

* * * * *

§ 2400.46 [Amended]

■ 10. Section 2400.46 is amended by removing the word "five" and adding, in its place, the word "three".

■ 11. Section 2400.47 is revised to read as follows:

§ 2400.47 Summer Institute's relationship to fellowship.

Each year, the Foundation normally offers during July a four-week graduate-level Institute on the principles, framing, ratification, and implementation of the United States Constitution at an accredited university in the Washington, DC, area. The Institute is an integral part of each fellowship.

■ 12. Section 2400.48 is revised to read as follows:

§ 2400.48 Fellows' participation in the Summer Institute.

Each fellow is required as part of his or her fellowship to attend the Institute (if it is offered), normally during the summer following the Fellow's commencement of graduate study under a fellowship.

§ 2400.50 [Amended]

■ 13. Section 2400.50 is amended by removing "For their participation in the Institute, Fellows are paid" and adding, in its place, "At the Foundation's discretion, Fellows may be paid".

§ 2400.53 [Amended]

■ 14. Section 2400.53 is amended by adding a new sentence at the end to read "A waiver of the time limit may be given for full-time students who require more than 36 credit hours or 54 quarter hours to complete their approved degree."

■ 15. Section 2400.55 is amended by revising paragraphs (f) and (i) to read as follows:

§ 2400.55 Certification for stipend.

* * * * *

(f) The amount and nature of income from any other grants or awards;

* * * * *

(i) A full Plan of Study over the duration of the fellowship, including information on the contents of required constitutional courses. Senior Fellows must provide evidence of their continued full-time employment as teachers in grades 7–12.

■ 16. Section 2400.56 is revised to read as follows:

§ 2400.56 Payment of stipend.

Payment for tuition, required fees, books, room, and board subject to the limitations in §§ 2400.52 through 2400.55 and §§ 2400.59 through 2400.60 will be paid via Electronic Funds Transfer to each Fellow at the beginning of each term of enrollment and upon the Fellow's submission of a completed Payment Request Form which includes the current University bulletin of cost information.

§ 2400.58 [Amended]

■ 17. In § 2400.58, paragraph (a) is amended by removing the words "fewer than" and adding, in their place, the words "at least"; and paragraph (b) is amended by removing the words "the Foundation will seek to recover" and adding, in their place, the words "the Fellow must repay".

§ 2400.60 [Amended]

■ 18. In § 2400.60, paragraph (a) is amended by removing the words "unless they are credited to the minimum number of credits required for the degree" at the end of the paragraph.

§ 2400.61 [Amended]

■ 19. Section 2400.61 is amended by adding a new sentence at the end to read "All postponements are given at the Foundation's discretion and will normally not extend for more than one year."

■ 20. Section 2400.63 is revised to read as follows:

§ 2400.63 Excluded graduate study.

James Madison Fellowships do not provide support for study toward doctoral degrees, for the degree of master of arts in public affairs or public administration. The Foundation may at its discretion, upon request of the Fellow, provide tuition only assistance toward teacher certification.

[FR Doc. 04–5585 Filed 3–11–04; 8:45 am]
BILLING CODE 6820–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–99–5157]

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; delay of effective date.

SUMMARY: NHTSA published a final rule in April 2002 that amended the Federal motor vehicle safety standard on bus emergency exits and window retention and release. The agency received several petitions for reconsideration of the rule. At present, the rule is to take effect on April 21, 2004. To allow for more time to respond to the petitions, this document delays the effective date of the final rule.

DATES: The effective date of the final rule published on April 19, 2002 (67 FR 19343) and amended on April 22, 2003 (68 FR 19752), is delayed until April 21, 2006. Any petitions for reconsideration of today's final rule must be received by NHTSA not later than April 26, 2004.

ADDRESSES: Petitions for reconsideration should refer to the docket number for this action and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical issues you may call: Mr. Charles Hott, Office of Crashworthiness Standards, at (202) 366–0247. Mr. Hott's FAX number is: (202) 493–2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel, at (202) 366–2992. Her FAX number is: (202) 366–3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 217, *Bus emergency exits and window retention and release*, (49 CFR 571.217) (FMVSS No. 217), specifies requirements for the retention of windows other than windshields in buses, and for operating forces, opening dimensions, and markings for bus emergency exits. The purpose of FMVSS No. 217 is to minimize the likelihood of occupants being thrown from the bus in a crash and to provide a means of readily accessible emergency egress.

2002 Final Rule

On April 19, 2002 (67 FR 19343)(DMS Docket No. NHTSA–99–5157), NHTSA published a final rule amending FMVSS No. 217 to reduce the likelihood that wheelchair securement anchorages [1] would be installed such that a wheelchair secured thereto would block access to emergency exit doors. For a side emergency exit door, the final rule restricted these anchorages from being placed in an area bounded by transverse vertical planes 305 mm (12 inches) forward and rearward of the center of the door aisle and a longitudinal vertical plane through the longitudinal centerline of the school bus.

For a rear emergency exit door, the final rule restricted the anchorages from being placed in an area bounded by:

[1] Defined at S4 of 49 CFR 571.222.

(a) longitudinal vertical planes tangent to the left and right sides of the door opening;

(b) a horizontal plane 1,145 mm (45 inches) above the bus floor; and

(c) a transverse vertical plane that is either: (1) 305 mm (12 inches) forward of the bottom edge of the door opening (for school buses with a gross vehicle weight rating (GVWR) over 4,536 kg) (over 10,000 lb), or

(2) 150 mm (6 inches) forward of the bottom edge of the door opening within the bus occupant space (for school buses with a GVWR of 4,536 kg or less)(10,000 lb or less).

The final rule also provided that in school buses with one or more wheelchair securement anchorages, emergency exit doors and emergency exit windows labeled as such must also bear a label stating, "DO NOT BLOCK". The agency said that access to these doors and exits should never be blocked with wheelchairs or other items, such as book bags, knapsacks, sports equipment or band equipment.

The final rule specified an effective date of April 21, 2003 for these amendments.

Petitions for Reconsideration

NHTSA received petitions for reconsideration of the April 19, 2002 final rule from three school bus manufacturers: Thomas Built Buses; American Transportation Corporation (now known as IC Corporation); and Blue Bird Body Company. The three petitioners requested reconsideration of the final rule's use of transverse vertical and horizontal planes to define the area around the side and rear emergency exit doors where wheelchair anchorages may not be located. All three companies stated that the area should instead be defined using "the rectangular parallelepiped fixture." The fixture is described in S5.4.2.1 of the standard.

The petitioners also raised other issues for reconsideration. They requested clarification of whether the "DO NOT BLOCK" warning label specified in the final rule is required for both emergency exit doors and emergency exit windows or emergency exit doors only. They asked for clarification about the intent of the "DO NOT BLOCK" warning label. In addition, a manufacturer asked NHTSA to clarify whether emergency exits not required by FMVSS No. 217 must meet FMVSS No. 217 emergency exit requirements.

In a letter dated January 29, 2003, Blue Bird Body Corporation asked NHTSA to delay the effective date of the rule by a year. Blue Bird asked for a one-year delay to give NHTSA an additional six months to respond to the petitions for reconsideration and to provide the school bus industry at least six months lead time to implement the changes. In a **Federal Register** document of April 22, 2003 (68 FR 19752), NHTSA delayed the effective date to April 21, 2004.

Present Effective Date

The petitions for reconsideration ask us to amend the final rule's method of determining the areas on a school bus where wheelchair securement anchorages must not be installed. Our response to those petitions could affect current designs of school bus exits. The agency is in the process of responding to the petitions. A 24-month extension of the effective date, to April 21, 2006, preserves the status quo until then. The benefits from the April 2002 rulemaking cannot be quantified, and are likely minor.

This Document Takes Effect Immediately

Because the April 21, 2004 effective date for the final rule is fast approaching, NHTSA finds for good cause that this action delaying the effective date should take effect immediately. Today's final rule makes no substantive change to the standard, but delays the effective date of the April 19, 2002 final rule for another two years while the agency responds to the petitions for reconsideration of the rule.

Rulemaking Analyses and Notices

A. Executive Order 12866, Regulatory Planning and Review, and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." Further, we have determined that this action is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979).

This final rule delays the effective date of an April 19, 2002 final rule. There are no additional costs associated with today's final rule.

B. Regulatory Flexibility Act

NHTSA has considered the impacts of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that the amendment will not have a significant economic impact on a substantial number of small entities. The rule will not impose any new requirements or costs on manufacturers, but instead will only preserve the *status quo* for 24 months.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)(PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Since it only delays the effective date of a final rule, this final rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained.

D. National Environmental Policy Act

We have analyzed this final rule for the purposes of the National Environmental Policy Act. We have determined that implementation of this action will not have any significant impact on the quality of the human environment.

E. Executive Order 13132, Federalism

This final rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, the United States Government, a state or political subdivision of a state may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings are not required before parties may file suit in court.

G. Unfunded Mandates Reform Act

This final rule will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

H. Executive Order 13045—Economically Significant Rules Disporportionately Affecting Children

This rule is not subject to E.O. 13045 because it is not "economically significant" as defined under E.O. 12866, and does not concern an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 9, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–5691 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–4086–07; I.D. 030904A]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the ALWTRP's implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,518 square nautical miles (nm^2) (5,206.6 km^2), east of Portsmouth, NH, for 15 days. The purpose of this action is to provide protection to an aggregation of North Atlantic right whales (right whales).

DATES: Effective beginning at 0001 hours March 14, 2004, through 2400 hours March 28, 2004.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9328 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) as well as to provide conservation benefits to a fourth non-endangered species (minke) due to incidental interaction with commercial fishing activities. The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 4° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) Require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On March 4, 2004, NMFS Aerial Survey Team reported a sighting of three right whales in the proximity of 42° 45.5′ N lat. and 68° 55.5′ W long. This position lies east of Portsmouth, NH. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule. The DAM zone is bound by the following coordinates:

43°05′N, 69°22′W (NW Corner)
43°05′N, 68°29′W
42°26′N, 68°29′W
42°26′N, 69°22′W

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: During March, this DAM zone overlaps both the Northeast multispecies' Cashes Ledge Closure Area and a portion of Rolling Closure Area I. During April, this DAM zone overlaps both the Northeast

multispecies' Cashes Ledge Closure Area and a portion of Rolling Closure Area II. This DAM action does not supersede Northeast multispecies closures found at 50 CFR 648.81.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Nearshore Lobster Waters that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portion of the Other Northeast Gillnet Waters that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends; and
5. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours March 14, 2004 through 2400 hours March 28, 2004, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon filing with the **Federal Register**.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

This action falls within the scope of alternatives and impacts analyzed in the Final EAs prepared for the ALWTRP's DAM program. Further analysis under the National Environmental Policy Act is not required.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this notice in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means as soon as the AA approves it, thereby providing approximately 3 additional days of notice while the Office of the Federal Register processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum

extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, DOC, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: March 10, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Operations, National Marine Fisheries Service.

[FR Doc. 04–5804 Filed 3–10–04; 2:50 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 020718172–2303–02; I.D. 030804B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 ft (18.3 m) LOA Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area in the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the limit of Pacific cod for catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 10, 2004, through 2400 hrs, A.l.t., December 31, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.22(a)(7)(i)(C)(*1*) and (*2*), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that 113 metric tons of Pacific cod have been caught by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof exemption area described at § 679.22(a)(7)(i)(C)(*1*). Consequently, the Regional Administrator is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by section 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 8, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–5663 Filed 3–9–04; 2:33 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031125292–4061–02; I.D. 030504B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season pollock total allowable catch (TAC) for Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 11, 2004, through 1200 hrs, A.l.t., August 25, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the pollock TAC in Statistical Area 630 of the GOA is 1,413 metric tons (mt) as established by the final 2004 harvest specifications for groundfish of the GOA (69 FR 9261, February 27, 2004). In accordance with § 679.20(a)(5)(iii)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby increases the B season pollock TAC by 1,215 mt, the amount of the A season pollock allowance in Statistical Area 630 that

was not previously taken in the A season. The revised B season allowance of pollock TAC in Statistical Area 630 is therefore 2,628 mt (1,413 mt plus 1,215 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the revised B season allowance of the pollock TAC in Statistical Area 630 will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,328 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure of the B season pollock TAC in Statistical Area 630.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 8, 2004.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–5662 Filed 3–9–04; 2:34 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 69, No. 49
Friday, March 12, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–57–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc (RR) RB211–22B, RB211–524, and RB211–535 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Rolls-Royce plc (RR) RB211–22B, RB211–524, and RB211–535 series turbofan engines. This proposal would require revising the Time Limits Manual for RR RB211–22B, RB211–524, and RB211–535 series turbofan engines. These revisions would include required enhanced inspection of selected critical life-limited parts at each piece-part exposure This proposal results from the need to require enhanced inspection of selected critical life-limited parts of RB211–22B, RB211–524, and RB211–535 series turbofan engines. We are proposing this AD to prevent failure of critical life-limited rotating engine parts, which could result in an uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by May 11, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- *By mail:* Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–57–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- *By fax:* (781) 238–7055.
- *By e-mail: 9-ane-adcomment@faa.gov.*

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include "AD Docket No. 2003–NE–57–AD" in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You may get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov.*

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. *See* **ADDRESSES** for the location.

Discussion

A recent FAA study analyzing 15 years of accident data for transport category airplanes identified several root causes for a failure mode that can result in serious safety hazards to transport category airplanes. This study identified uncontained failure of critical life-limited rotating engine parts as the leading engine-related safety hazard to airplanes. Uncontained engine failures have resulted from undetected cracks in rotating parts that started and grew to failure. Cracks can start from causes such as unintended excessive stress from the original design, or they may start from stresses induced from material flaws, handling, or damage from machining operations. The failure of a rotating part can present a significant safety hazard to the airplane by release of high-energy fragments that could injure passengers or crew by penetration of the cabin, damage flight control surfaces, sever flammable fluid lines, or otherwise compromise the airworthiness of the airplane.

Based on these findings, the FAA, with concurrence from the Civil Aviation Authority (CAA), which is the Airworthiness Authority for the United Kingdom (U.K.), has developed an intervention strategy to significantly reduce uncontained engine failures. This intervention strategy was developed after consultation with industry and will be used as a model for future initiatives. The intervention strategy is to conduct enhanced, nondestructive inspections of rotating parts, which could most likely result in a safety hazard to the airplane in the event of a part fracture. We are considering the need for additional rulemaking. We might issue future ADs to introduce additional intervention strategies to further reduce or eliminate uncontained engine failures.

Properly focused enhanced inspections require identification of the parts whose failure presents the highest safety hazard to the airplane, identifying the most critical features to inspect on these parts, and utilizing inspection procedures and techniques that improve crack detection. The CAA, with close cooperation of RR, has completed a detailed analysis that identifies the most safety significant parts and features, and the most appropriate inspection methods.

Critical life-limited high-energy rotating parts are currently subject to some form of recommended crack inspection when exposed during engine maintenance or disassembly. The inspections currently recommended by the manufacturer would become

mandatory for those parts listed in the compliance section as a result of this proposed AD. Furthermore, we intend that additional mandatory enhanced inspections resulting from this AD would serve as an adjunct to the existing inspections. We have determined that the enhanced inspections will significantly improve the probability of crack detection on disassembled parts during maintenance. All mandatory inspections must be conducted in accordance with detailed inspection procedures prescribed in the manufacturer's Engine Manual.

Additionally, this proposed AD would:

- Allow air carriers that operate under the provisions of 14 CFR part 121 with an FAA-approved continuous airworthiness maintenance program, and maintenance facilities to verify completion of the enhanced inspections.
- Allow the air carrier or maintenance facility to retain the maintenance records that include the inspections resulting from this proposed AD, if the records include the date and signature of the person who performed the maintenance action.
- Require retaining the records with the maintenance records of the part, engine module, or engine until the task is repeated.
- Establish a method of record preservation and retrieval typically used in existing continuous airworthiness maintenance programs.
- Require adding instructions in an air carrier's maintenance manual on how to implement and integrate this record preservation and retrieval system into the air carrier's record keeping system.

For engines or engine modules that are approved for return to service by an authorized FAA-certificated entity, and that are acquired by an operator after the effective date of the proposed AD, you would not need to perform the mandatory enhanced inspections until the next piece-part opportunity. For example, you would not have to disassemble to piece-part level, an engine or module returned to service by an FAA-certificated facility simply because that engine or module was previously operated by an entity not required to comply with this proposed AD. Furthermore, we intend that operators perform the enhanced inspections of these parts at the next piece-part opportunity after the initial acquisition, installation, and removal of the part after the effective date of this proposed AD. For piece parts not approved for return to service before the effective date of this AD, the proposed AD would require that you perform the mandatory enhanced inspections before approval of those parts for return to service. The proposed AD would allow installation of piece parts approved for return to service before the effective date of this AD. However, the proposed AD would require an enhanced inspection at the next piece-part opportunity.

This proposal would require, within the next 40 days after the effective date of this proposed AD, revisions to the Time Limits Manual.

FAA's Determination and Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other Rolls-Royce plc RB211–22B, RB211–524, and RB211–535 series turbofan engines of the same type design that are used on Boeing 747, 757, 767, Lockheed L–1011, and Tupolev Tu204 airplanes registered in the United States, the proposed AD would require revisions to the Time Limits Manual for RR RB211–22B, RB211–524, and RB211–535 series turbofan engines to include required enhanced inspection of selected critical parts at each piece-part exposure.

Changes to 14 CFR Part 39—Effect on the Proposed AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47998, July 22, 2002), which governs the FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

There are about 882 RB211–22B and RB211–524 series engines and about 1,160 RB211–535 series engines of the affected design in the worldwide fleet. We estimate that 30 RB211–22B and RB211–524 series engines and 620 RB211–535 series engines installed on airplanes of U.S. registry would be affected by this proposed AD. We also estimate that it would take about 75 work hours per engine to perform the proposed inspections, and that the average labor rate is $65 per work hour. Since this is an added inspection requirement, included as part of the normal maintenance cycle, no additional part costs are involved. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,169,000.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this proposal and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "AD Docket No. 2003–NE–57–AD" in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Rolls-Royce plc: Docket No. 2003–NE–57–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by May 11, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) RB211–22B, RB211–524, and RB211–535 series turbofan engines.

These engines are installed on, but not limited to, Boeing 747, 757, 767, Lockheed L–1011, and Tupolev Tu204 airplanes.

Unsafe Condition

(d) This AD results from the need to require enhanced inspection of selected critical life-limited parts of RB211–22B, RB211–524, and RB211–535 series turbofan engines. We are issuing this AD to prevent failure of critical life-limited rotating engine parts, which could result in an uncontained engine failure and damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

(f) Within the next 40 days after the effective date of this AD, revise the Time Limits Manual (TLM), and for air carrier operations revise the approved continuous airworthiness maintenance program, by adding the following text and the applicable table determined by engine model number:

"Group A Parts Mandatory Inspection

(1) Inspections referred to as 'Focus Inspect' in the applicable Engine Manual inspection Task are mandatory inspections for the components given below, when the conditions that follow are satisfied:

(i) When the component has been completely disassembled to piece-part level as given in the applicable disassembly procedures contained in the Engine Manual; and

(ii) The part has more than 100 recorded flight cycles in operation since the last piece-part inspection. or

(iii) The component removal was for damage or a cause directly related to its removal; or

(iv) Where serviceable used components, for which the inspection history is not fully known, are to be used again."

(2) The list of Group A Parts for RB211–22B engines is specified below:

Part nomenclature (RB211–22B series engines)	Part number	Inspected per overhaul manual task
Low Pressure Compressor Rotor Disc	All	72–31–12–200–006
Low Pressure Compressor Rotor Shaft	All	72–31–20–200–000
Intermediate Pressure Compressor Rotor Shaft Stages 1 to 5	All	72–32–31–200–000
Intermediate Pressure Compressor Rotor Shaft Stages 6 to 7	All	72–32–31–200–001
Intermediate Pressure Compressor Rotor Rear Stubshaft	All	72–33–31–200–000
High Pressure Compressor Rotor Stage 1 to 2 Disc Shaft	All	72–41–31–200–000
High Pressure Compressor Rotor Stage 3 Disc	All	72–41–31–200–001
High Pressure Compressor Rear Rotor Shaft Assembly	All	72–41–31–200–002
Compressor/Turbine Joint Flange Support Disc	All	72–41–31–200–003
High Pressure Turbine Disc	All	72–41–51–200–000
Intermediate Pressure Turbine Disc	All	72–51–31–200–000
Intermediate Pressure Turbine Shaft	All	72–51–33–200–000
Low Pressure Turbine Stage 1 Disc	All	72–51–61–200–000
Low Pressure Turbine Stage 2 Disc	All	72–51–61–200–001
Low Pressure Turbine Stage 3 Disc	All	72–51–61–200–002
Low Pressure Turbine Shaft	All	72–51–63–200–000

(3) The list of Group A Parts for RB211–535 series engines is specified below:

Part nomenclature (RB211–535 Series Engines)	Part number	Inspected per overhaul manual task
Low Pressure Compressor Rotor Disc	All	72–31–12–200–000
Low Pressure Compressor Rotor Shaft	All	72–31–20–200–000
Intermediate Pressure Compressor Rotor Shaft	All	72–32–31–200–001
Intermediate Pressure Compressor Rotor Rear Stubshaft	All	72–33–21–200–000
High Pressure Compressor Rotor Stage 1 & 2 Disc	All	72–41–31–200–000
High Pressure Compressor Rotor Stage 3 Disc	All	72–41–31–200–001
High Pressure Compressor Rear Rotor Shaft Assembly	All	72–41–31–200–002
Compressor/Turbine Joint Flange Support Disc (applicable to –535C only)	All	72–41–31–200–003
High Pressure Turbine Disc	All	72–41–51–200–000
Intermediate Pressure Turbine Rotor Disc	All	72–51–31–200–000
Intermediate Pressure Turbine Shaft	All	72–51–33–200–000
Low Pressure Turbine Stage 1 Disc	All	72–51–61–200–000
Low Pressure Turbine Stage 2 Disc	All	72–51–61–200–001
Low Pressure Turbine Stage 3 Disc	All	72–51–61–200–002
Low Pressure Turbine Shaft	All	72–51–63–200–000

(4) The list of Group A Parts for RB211–524B, –524B3, and –524B4 series engines is specified below:

Part nomenclature (RB211–524B, –524B3, and –524B4 series engines)	Part Number	Inspected per overhaul manual task
Low Pressure Compressor Rotor Disc	All	72–31–12–200–05 (Configuration 1) 72–31–12–200–013 (Configuration 2)
Low Pressure Compressor Rotor Shaft	All	72–31–20–200–000
Intermediate Pressure Compressor Stage 1 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 2 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 3 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 4 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 5 Disc	All	72–32–31–200–001
Intermediate Pressure Compressor Rotor Shaft Stages 6 to 7	All	72–32–31–200–001
Intermediate Pressure Compressor Front Stubshaft Drive Cone	All	72–32–31–200–008
Intermediate Pressure Compressor Rotor Rear Stubshaft	All	72–33–21–200–010
High Pressure Compressor Rotor Stage 1 to 2 Disc	All	72–41–31–200–000
High Pressure Compressor Rotor Stage 3 Disc	All	72–41–31–200–001
High Pressure Compressor Rear Rotor Shaft Assembly	All	72–41–31–200–002
High Pressure Compressor/Turbine Joint Flange Support Disc	All	72–41–31–200–006
High Pressure Turbine Bearing Inner Race Support Panel	All	72–41–51–200–005
High Pressure Turbine Disc	All	72–41–51–200–019
High Pressure Turbine Conical Shaft	All	72–41–51–200–021
Intermediate Pressure Turbine Disc	All	72–51–31–200–003
Intermediate Pressure Turbine Shaft	All	72–51–33–200–005
Low Pressure Turbine Stage 1 Disc	All	72–51–61–200–000 (Configuration 1) 72–51–61–200–007 (Configuration 2)
Low Pressure Turbine Stage 2 Disc	All	72–51–61–200–001 (Configuration 1) 72–51–61–200–008 (Configuration 2)
Low Pressure Turbine Stage 3 Disc	All	72–51–61–200–002 (Configuration 1) 72–51–61–200–009 (Configuration 2)
Low Pressure Turbine Shaft	All	72–51–63–200–000 (Configuration 1) 72–51–63–200–003 (Configuration 2)

(5) The list of Group A Parts for RB211–524B2, –524C2, and –524D4 series engines is specified below:

Part nomenclature (RB211–524B, –524C2, and –524D4 series engines)	Part number	Inspected per overhaul manual task
Low Pressure Compressor Rotor Disc	All	72–31–12–200–013
Low Pressure Compressor Rotor Shaft	All	72–31–20–200–000
Intermediate Pressure Compressor Stage 1 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 2 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 3 Disc	All	72–32–31–200–000
Intermediate Pressures Compressor Stage 4 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 5 Disc	All	72–32–31–200–001
Intermediate Pressure Compressor Rotor Shaft Stages 6 to 7	All	72–32–31–200–001
Intermediate Pressure Compressor Front Stubshaft Drive Cone	All	72–32–31–200–008
Intermediate Pressure Compressor Rotor Rear Stubshaft	All	72–33–21–200–010
High Pressure Compressor Rotor Stage 1 to 2 Disc	All	72–41–31–200–000
High Pressure Compressor Rotor Stage 3 Disc	All	72–41–31–200–001
High Pressure Compressor Rear Rotor Shaft Assembly	All	72–41–31–200–002
High Pressure Compressor/Turbine Joint Flange Support Disc	All	72–41–31–200–006
High Pressure Turbine Bearing Inner Race Support Panel	All	72–41–51–200–005
High Pressure Turbine Disc	All	72–41–51–200–019
High Pressure Turbine Conical Shaft	All	72–41–51–200–021
Intermediate Pressure Turbine Rotor Disc	All	72–51–31–200–003
Intermediate Pressure Turbine Shaft	All	72–51–33–200–005
Low Pressure Turbine Stage 1 Disc	All	72–51–61–200–007
Low Pressure Turbine Stage 2 Disc	All	72–51–61–200–008
Low Pressure Turbine Stage 3 Disc	All	72–51–61–200–009
Low Pressure Turbine Shaft	All	72–51–63–200–003

(6) The list of Group A Parts for RB211–524G and –524H series engines is specified below:

Part nomenclature (RB211–524G and –524H Series Engines)	Part number	Inspected per overhaul manual task
Low Pressure Compressor Rotor Disc	All	72–31–12–200–000
Low Pressure Compressor Rotor Shaft	All	72–31–20–200–000
Intermediate Pressure Compressor Stage 1 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 2 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 3 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 4 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Stage 5 Disc	All	72–32–31–200–000
Intermediate Pressure Compressor Rotor Shaft Stages 6 to 7	All	72–32–31–200–001
Intermediate Pressure Compressor Front Stubshaft Drive Cone	All	72–32–31–200–008
Intermediate Pressure Compressor Rotor Rear Stubshaft	All	72–33–21–200–010
High Pressure Compressor Rotor Stage 1 to 2 Disc	All	72–41–31–200–000 (Configuration 1)
High Pressure Compressor Rotor Stage 3 Disc	All	72–41–31–200–001 (Configuration 1)
High Pressure Compressor Rear Rotor Shaft Assembly	All	72–41–31–200–002 (Configuration 1)
Compressor/Turbine Joint Flange Support Disc	All	72–41–31–200–003 (Configuration 1)
High Pressure Compressor Rotor Shaft Assembly	All	72–41–31–200–014 (Configuration 2)
High Pressure Turbine Disc	All	72–41–51–200–010 (Configuration 1) 72–41–51–200–024 (Configuration 2)
Intermediate Pressure Turbine Disc	All	72–51–31–200–003
Intermediate Pressure Turbine Shaft	All	72–51–33–200–005
Low Pressure Turbine Stage 1 Disc	All	72–51–61–200–007
Low Pressure Turbine Stage 2 Disc	All	72–51–61–200–008
Low Pressure Turbine Stage 3 Disc	All	72–51–61–200–009
Low Pressure Turbine Shaft	All	72–51–63–200–003"

Alternative Methods of Compliance

(g) You must perform these mandatory inspections using the TLM and the applicable Engine Manual unless you receive approval to use an alternative method of compliance under paragraph (h) of this AD. Section 43.16 of the Federal Aviation Regulations (14 CFR 43.16) may not be used to approve alternative methods of compliance or adjustments to the times in which these inspections must be performed.

(h) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Maintaining Records of the Mandatory Inspections

(i) You have met the requirements of this AD by using a TLM changed as specified in paragraph (f) of this AD, and, for air carriers operating under part 121 of the Federal Aviation Regulations (14 CFR part 121), by modifying your continuous airworthiness maintenance plan to reflect those changes. You must maintain records of the mandatory inspections that result from those changes to the TLM according to the regulations governing your operation. You do not need to record each piece-part inspection as compliance to this AD. For air carriers operating under part 121, you may use either the system established to comply with section 121.369 or use an alternative system that your principal inspector has accepted if that alternative system:

(1) Includes a method for preserving and retrieving the records of the inspections resulting from this AD; and

(2) Meets the requirements of section 121.369(c); and

(3) Maintains the records either indefinitely or until the work is repeated.

(j) These record keeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the Time Limits Manual as specified in paragraph (f) of this AD, and do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Related Information

(k) CAA airworthiness directives No. G–2003–0006, dated September 18, 2003, No. G–2003–0009, dated September 19, 2003, and No. G–2003–0007, dated September 18, 2003 also address the subject of this AD.

Issued in Burlington, Massachusetts, on March 5, 2004.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 04–5621 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

User Input to the Aviation Weather Technology Transfer (AWTT) Board

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT)

ACTION: Notice of public meeting.

SUMMARY: The FAA will hold an informal public meeting to seek aviation weather user input. Details: April 14, 2004; Northrop Grumman, 475 School Street, SW., Washington, DC 20024; 9 a.m. to 5 p.m. The objective of this meeting is to provide an opportunity for interested Government and commercial sector representatives who use government-provided aviation weather

information in operational decision-making to provide input on FAA's plans for implementing new weather products.

DATES: The meeting will be held at Northrop Grumman, 475 School Street, SW., Washington, DC 20024; Times: 9 a.m. to 5 p.m. on April 14, 2004.

FOR FURTHER INFORMATION CONTACT: Debi Bacon, Aerospace Weather Policy Division, ARS–100, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone number (202) 385–7705; Fax: (202) 385–7701; e-mail: *debi.bacon@faa.gov.*

SUPPLEMENTARY INFORMATION:

History

In 1999, the FAA established an Aviation Weather Technology Transfer (AWTT) Board to manage the orderly transfer of weather capabilities and products from research and development (R&D) into operations. The Director of the Aerospace Weather Policy and Standards Staff, ARS–20, chairs the AWTT Board. The board is composed of stakeholders in Air Traffic Services, ATS; Regulation and Certification, AVR; and Research and Acquisitions, ARA in the Federal Aviation Administration and the Office of Climate, Water and Weather Services, OS and the Office of Science and Technology, OST in the National Weather Service.

The AWTT Board meets semi-annually or as needed, to determine the readiness of weather R&D products for experimental use, full operational use for meteorologists or full operational use for end users. The board's determinations are based upon criteria in the following areas: Users needs; benefits; costs; risks; technical readiness; operational readiness and budget requirements.

FAA has the sole responsibility and authority to make decisions intended to provide a safe, secure, and efficient U.S. national airspace system. However, it behooves FAA to not make decisions in a vacuum. Rather, FAA is seeking inputs from the user community before decisions are finalized. The purpose of this meeting is to obtain industry feedback.

Industry users will be invited to participate in quarterly, one-day meetings to provide input for development of concepts of use (ConUse) for individual aviation weather products approaching specific AWTT board decision points. The decision points are for transition from the test stage (D2) to the experimental stage (D3) and/or from the experimental stage (D3) to the operational stage (D4). Industry meetings will precede the scheduled AWTT board meetings approximately one month prior to each board meeting and in each of the other two quarters of the year. These industry review sessions will be announced in the **Federal Register** and open to all interested parties.

This meeting is the industry session intended to provide input for a roadmap for aviation weather. It is also intended to receive feedback on weather R&D products that will be presented for consideration at the May and November 2004 and May 2005 AWTT Board meetings. The products to be considered include the Current Icing Potential (CIP) Severity product for D3; the National Convective Weather Forecast (NCWF) 2 hour product (D3); the Forecast Icing Potential (FIP)—Alaska product (D3); the FIP Supercooled Large Droplets (SLD) product (D4); the FIP Severity product (D3); the Graphical Turbulence Guidance (GTG) Flight Level 100–200 (D3); the Oceanic Cloud Top Height product (CTOP) (D3); and the GTG Mountain Wave Turbulence (MWT), probabilistic and 24 hour capability products (D3).

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of the FAA Headquarters.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient seating capacity for the expected participation. There will be neither admission fee nor other charge to attend and participate. Attendees must present themselves to the security guard at the Northrop Grumman Office, 475 School Street, SW., Washington, DC 20024 to obtain a visitor pass and adhere to security instructions for the Northrop Grumman facility.

(c) FAA personnel will conduct an overview briefing on the user input process to the AWTT and changes made to that process. Questions may be asked during the presentation and FAA personnel will clarify any part of the process that is not clear.

(d) FAA personnel will lead a session intended to refine an aviation weather roadmap, and a second session intended to refine ConUses for specific weather products due for AWTT board decisions during 2004. Any person present may offer comment or feedback on the aviation weather roadmap, or the specific products due for board decisions. Comments/Feedback on the proposed products will be captured through discussion between FAA personnel and those persons attending the meeting.

(e) FAA will not take any action items from this meeting nor make any commitments to accept specific user suggestions. The meeting will not be formally recorded. However, informal tape recordings may be made of the presentations to ensure that each respondent's comments are noted accurately.

(f) An official verbatim transcript or minutes of the informal meeting will not be made. However, a list of the attendees and a digest of discussions during the meeting will be produced. Any person attending may receive a copy of the written information upon request to the information contact, above.

(g) Every reasonable effort will be made to hear each person's feedback consistent with a reasonable closing time for the meeting. Written feedback is also solicited and may be submitted to FAA personnel for the period April 15–May 31, 2004.

Agenda

(a) Opening Remarks and Discussion of Meeting Procedures
(b) Review of AWTT user input process and calendar updates
(c) Roadmap Work Session
(d) ConUse Work Session
(e) Closing Comments

Issued in Washington, DC on March 9, 2004.

Richard J. Heuwinkel,

Acting Staff Director, Office of Aerospace Weather Policy and Standards.

[FR Doc. 04–5681 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter 1

[FRL–7635–7]

RIN 2060–AL71

Approaches to an Integrated Framework for Management and Disposal of Low-Activity Radioactive Waste: Request for Comment; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking (ANPR); extension of comment period.

SUMMARY: The Environmental Protection Agency is extending the comment period for the Advance Notice of

Proposed Rulemaking titled "Approaches to an Integrated Framework for Management and Disposal of Low-Activity Radioactive Waste: Request for Comment," which appeared in the **Federal Register** on November 18, 2003 (68 FR 65120). The public comment period for this ANPR was to end on March 17, 2004. The purpose of this notice is to extend the comment period.

DATES: EPA will accept public comments on this ANPR until May 17, 2004. Comments received after that date will be marked "late" and accepted at our discretion.

ADDRESSES: Comments may be submitted by mail to Air and Radiation Docket, Environmental Protection Agency, EPA West Room B108, Mailcode: 6102T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Attention Docket ID No. OAR–2003–0095. Comments may also be submitted electronically or through hand delivery/courier. Follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Dan Schultheisz, Radiation Protection Division, Office of Radiation and Indoor Air, Mailcode: 6608J, United States Environmental Protection Agency, Washington, DC, 20460–0001; telephone (202) 343–9300; e-mail *schultheisz.daniel@epa.gov.*

SUPPLEMENTARY INFORMATION: The ANPR that is the subject of this notice, and which was published in the **Federal Register** on November 18, 2003 (68 FR 65120), requested public comment on a variety of technical and policy issues related to the management and disposal of "low-activity" radioactive waste. The ANPR outlined approaches that EPA believes could help improve the current regulatory system and provide more consistency in the management of these wastes. Most prominent is the potential use of hazardous waste landfills permitted under Subtitle C of the Resource Conservation and Recovery Act (RCRA) for wastes containing low concentrations of radionuclides. Waste streams discussed in the ANPR include wastes currently regulated at the Federal level (such as mixed hazardous and radioactive wastes) and wastes primarily regulated by States (such as wastes containing natural radioactivity).

The comment period for the ANPR was scheduled to end on March 17, 2004. However, the Agency has received both formal and informal requests to extend the comment period. The Utilities Solid Waste Activities Group has formally requested that EPA extend the comment period, noting that it is submitting comments on several other EPA rulemaking actions with comment periods ending close to that date. The National Mining Association and Wyoming Mining Association have made similar requests. EPA believes these requests are reasonable. EPA also notes that this action is not subject to any statutory or judicial deadlines. We are therefore extending the comment period for this ANPR until May 17, 2004.

EPA also notes that several public interest groups, particularly the Nuclear Information and Resource Service (NIRS) and Public Citizen, have requested extensions of six and eight months, respectively. The reason given for these requests is to ensure that those communities in the vicinity of disposal facilities potentially affected by an EPA action are fully informed of the issues raised in the ANPR. An extension of such length, particularly at the ANPR stage, would be highly unusual. Periods of 30 or 45 days are more typical. Further, should EPA decide that a rulemaking is appropriate, there will be additional opportunity for public comment on any proposed rule that contains specific regulatory language. EPA believes that a 60-day extension until May 17, 2004, making the entire comment period six months, is sufficient. However, EPA appreciates this concern and is considering a number of methods to ensure that local communities are involved in all stages of the process.

How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments, but will do so at its discretion.

Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD-ROM you submit, and in any cover letter accompanying the disk or CD-ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. OAR–2003–0095. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Comments may be sent by electronic mail (e-mail) to *a-and-r-Docket@epa.gov,* Attention Docket ID No. OAR–2003–0095. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

You may submit comments on a disk or CD-ROM that you mail to the mailing address identified in the following paragraph. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

By Mail

Send your comments to: Air and Radiation Docket, Environmental Protection Agency, EPA West Room B108, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OAR–2003–0095.

By Hand Delivery or Courier

Deliver your comments to: Air and Radiation Docket in the EPA Docket Center, EPA West Room B108, 1301 Constitution Ave., NW., Washington, DC, 20004, Attention Docket ID No. OAR–2003–0095. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays).

By Facsimile

Fax your comments to (202) 566–1741, Attention Docket ID. No. OAR–2003–0095.

Dated: March 4, 2004.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 04–5642 Filed 3–11–04; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1827, 1828, 1829, 1830, 1831, 1832, and 1833

RIN 2700–AC68

Re-Issuance of NASA FAR Supplement Subchapter E

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the NASA FAR Supplement (NFS) by removing from the Code of Federal Regulations (CFR) those portions of the NFS containing information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. This change is consistent with the guidance and policy in FAR Part 1 regarding what comprises the Federal Acquisition Regulations System and requires publication for public comment. The NFS document will continue to contain both information requiring codification in the CFR and internal Agency guidance in a single document that is available on the Internet. This change will reduce the administrative burden and time associated with maintaining the NFS by only publishing in the **Federal Register** for codification in the CFR material that is subject to public comment.

DATES: Comments should be submitted on or before May 11, 2004 to be considered in formulation of the final rule.

ADDRESSES: Interested parties may submit comments, identified by RIN number 2700–AC86, via the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. Comments may also be submitted to Celeste Dalton, NASA, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546. Comments can also be submitted by e-mail to: *Celeste.M.Dalton@nasa.gov*.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, NASA, Office of Procurement, Contract Management Division (Code HK); (202) 358–1645; e-mail: *Celeste.M.Dalton@nasa.gov*

SUPPLEMENTARY INFORMATION:

A. Background

Currently the NASA FAR Supplement (NFS) contains information to implement or supplement the FAR. This information contains NASA's policies, procedures, contract clauses, solicitation provisions, and forms that govern the contracting process or otherwise control the relationship between NASA and contractors or prospective contractors. The NFS also contains information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. Regardless of the nature of the information, as a policy, NASA has submitted to the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) and published in the **Federal Register** all changes to the NFS, FAR 1.101 states in part that the "Federal Acquisition Regulations System consists of the Federal Acquisition Regulation (FAR), which is the primary document, and agency acquisition regulations that implement or supplement the FAR. The FAR System does not include internal agency guidance of the type described in 1.301(a)(2)." FAR 1.301(a)(2) states in part "an agency head may issue or authorize the issuance of internal agency guidance at any organizational level (*e.g.*, designations and delegations of authority, assignments of responsibilities, work-flow procedures, and internal reporting requirements)." Further, FAR 1.303 states that issuances under FAR 1.301(a)(2) need not be published in the **Federal Register**. Based on the foregoing, NASA is not required to publish and codify internal Agency guidance.

This proposed rule will modify the existing practice by only publishing those regulations which may have a significant effect beyond the internal operating procedures of the Agency or have a significant cost or administrative impact on contractors or offerors. The NFS will continue to integrate into a single document both regulations subject to public comments and internal Agency guidance and procedures that do not require public comment. Those portions of the NFS that require public comment will continue to be amended by publishing changes in the **Federal Register.** NFS regulations that require public comment are issued as Chapter 18 of Title 48, CFR. Changes to portions of the regulations contained in the CFR, along with changes to internal guidance and procedures, will be incorporated into the NASA-maintained Internet version of the NFS through Procurement Notices (PNs). The single official NASA-maintained version of the NFS will remain available on the Internet. NASA personnel must comply with all regulatory and internal guidance and procedures contained in the NFS.

This change will result in savings in terms of the number of rules subject to publication in the **Federal Register** and provide greater responsiveness to internal administrative changes.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities with the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601. *et seq.*, because this proposed rule would only remove from the CFR information that is considered internal Agency administrative procedures and guidance. The information removed from the CFR will continue to be made available to the public via the Internet.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1827 through 1833.

Government Procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR parts 1827 through 1833 are amended as follows:

1. The authority citation for 48 CFR parts 1827 through 1833 continue to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1827—PATENTS, DATA, AND COPYRIGHTS

2. Amend part 1827 by removing sections 1827.305–3, 1827.305–370, 1827.305–371, paragraphs (d), (e), (f), (g)(3)(B), (g)(3)(C), (g)(3)(D), (h), and (i) in section 1827.404, sections 1827.405, 1827.406, 1827.408, and paragraphs (b), (c), (d), and (e) in section 1827.409.

PART 1828—BONDS AND INSURANCE

3. Amend part 1828 by removing sections 1828.106, 1828.106–6, Subpart 1828.2, and sections 1828.307, 1828.307–1, 1828.307–2, and 1828.307–70.

PART 1829—TAXES

4. Remove part 1829.

PART 1830—COST ACCOUNTING STANDARDS ADMINISTRATION

5. Amend part 1830 by removing Subpart 1830.2 and removing and reserving sections 1830.7001–1, 1830.7001–2, and 1830.7001–3.

PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

6. Amend part 1831 by removing sections 1831.205–6, 1831.205–670, and 1831.205–32, and removing the phrase "under 1831.205–32" in section 1831.205–70.

PART 1832—CONTRACT FINANCING

7. Amend part 1832 by—

(a) Removing sections 1832.006–2, 1832.007;

(b) Removing "(see 1832.402)" in paragraph (b)(6) of section 1832.202–1; and

(c) Removing sections 1832.402, 1832.406, 1832.407, 1832.409, 1832.409–1, 1832.409–170, 1832.410, 1832.501–2, 1832.502, 1832.502–2, 1832.503, 1832.503–5, 1832.504, 1832.702, 1832.702–70, 1832.704, 1832.704–70, Subpart 1832.9, and sections 1832.1001, 1832.1004, paragraph (b)(2) in section 1832.1005, and paragraph (c) in section 1832.1110.

PART 1833—PROTESTS, DISPUTES, AND APPEALS

8. Amend part 1833 by removing paragraph (f) in section 1833.103, and sections 1833.104, 1833.106, 1833.209, 1833.210, and 1833.211.

[FR Doc. 04–5693 Filed 3–11–04; 8:45 am]
BILLING CODE 7510–01–P

Notices

Federal Register
Vol. 69, No. 49
Friday, March 12, 2004

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–015–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations under which eligible persons can receive compensation for losses and expenses incurred because of Karnal bunt.

DATES: We will consider all comments that we receive on or before May 11, 2004.

ADDRESSES: You may submit comments by any of the following methods:

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 04–015–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–015–1.
- *E-mail:* Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 04–015–1" on the subject line.
- Agency Web site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for Karnal bunt compensation, contact Mr. Stephen Poe, Operations Officer, Pest Detection and Management Programs, PPQ APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–8899. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS" Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Karnal Bunt; Compensation for the 1999–2000 Crop Season and Subsequent Seasons.

OMB Number: 0579–0182.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (7 U.S.C. 7701–7772) authorizes the Secretary of Agriculture, either independently or in cooperation with States, to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests, such as Karnal bunt, that are new to or not widely distributed within the United States.

Karnal bunt is a fungal disease of wheat (*Tricum aestivum*), durum wheat (*Triticum durum*), and triticale wheat (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed. In the absence of measures taken by the U.S. Department of Agriculture to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

The regulations regarding Karnal bunt are set forth in 7 CFR 301.89–1 through 301.89–16. Among other things, the regulations define areas regulated for Karnal bunt and restrict the movement of certain regulated articles, including wheat seed and grain, from the regulated areas.

The regulations also provide for the payment of compensation to eligible persons in order to reduce the economic impact of our Karnal bunt quarantine on wheat producers and other individuals, and to help obtain their cooperation in our eradication efforts. The compensation program requires individuals to engage in several information collection activities, including the completion of a Karnal bunt compensation worksheet and compensation form.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Wheat growers, shippers, seed companies, State plant regulatory authorities, and Farm Service Agency personnel.

Estimated annual number of respondents: 170.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 170.

Estimated total annual burden on respondents: 85 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 8th day of March 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–5627 Filed 3–11–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–019–1]

Availability of a Draft Document Pertaining to the Risks Associated With the Introduction of Soybean Rust Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft document entitled "Status of Scientific Evidence on Risks Associated with the Introduction into the Continental United States of *Phakopsora pachyrhizi* with Imported Soybean Grain, Seed and Meal." We are making this document available to the public for review and comment.

DATES: We will consider all comments that we receive on or before April 12, 2004.

ADDRESSES: You may submit comments by any of the following methods:

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04–019–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–019–1.
- E-mail: Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 04–019–1" on the subject line.
- Agency Web Site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold T. Tschanz, Senior Staff Officer, Regulatory Coordination, PPQ, APHIS, 4700 River Road, Unit 141, Riverdale, MD 20737–1236, (301) 734–5306.

SUPPLEMENTARY INFORMATION:

Background

Soybean rust is caused by two different fungal species—*Phakopsora pachyrhizi* Sydow and *Phakopsora meibomiae* (Arthur) Arthur. *P. pachyrhizi* is an aggressive pathogen and spreads rapidly under conducive environmental conditions. It is referred to as the Asian, Australian, or Old World rust strain. *P. meibomiae* is a less aggressive pathogen on soybean. It is referred to as the tropical, Latin American, or New World rust strain. Soybean rusts caused by one or both of these species have been reported in most soybean producing areas of the world, except for North America and Europe.

In light of recent outbreaks in South America of the Asian strain of soybean rust (*P. pachyrhizi*), U.S. soybean producers have asked APHIS to reevaluate the entry status of soybean grain, seed, and meal from countries where soybean rust is known to occur. To evaluate the risks associated with the introduction of soybean rust into the continental United States, a draft document, entitled "Status of Scientific Evidence on Risks Associated with the Introduction into the Continental United States of *Phakopsora pachyrhizi* with Imported Soybean Grain, Seed and Meal" (February 23, 2004), has been prepared. We are making the draft document available to the public for review and comment.

You may view the draft document on the Internet at *http://www.aphis.usda.gov/ppq/ep/soybean_rust/sbr_riskevidoc2_23_04.pdf*. You may request copies from the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the draft document when requesting copies. Finally, the draft document is available for review in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this notice).

In addition, we are soliciting comments addressing the following questions:

1. What conditions at harvest and during cleaning, drying, storage, or transport would change the risk of introducing *P. pachyrhizi* with imported soybean grain, seed, and meal?
2. Is there additional specific information on industry and agricultural practices that would affect the risk of introducing the soybean rust pathogen with imported soybean grain, seed, and meal?
3. Are most soybeans that are grown in areas infested with soybean rust sprayed with fungicides? How effective is this control?
4. What other practical treatments could be used to address the risk of introducing the soybean rust pathogen in imported soybean grain, seed, and meal?
5. Is there any other information APHIS should consider in determining the risk of introducing *P. pachyrhizi* with imported soybean grain, seed, and meal?

We welcome all comments on the issues outlined above and encourage the submission of scientific information that supports any statements and conclusions. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice. These comments will be considered during the development of a pest risk assessment for soybean rust.

Authority: 7 U.S.C. 450 and 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 8th day of March 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–5628 Filed 3–11–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Publication Comment Cards

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to extend an information collection. The Southern Research Station disseminates research publications to individuals, institutions, organizations, and interest groups. Information is collected from those who receive the scientific research publications. The collected information enables the Forest Service to assess the value to the customer of these publications.

DATES: Comments on this notice must be received in writing on or before May 11, 2004.

ADDRESSES: Comments concerning this notice should be sent to Communications Office, Southern Research Station, Forest Service, USDA, P.O. Box 2680, Asheville, NC 28802.

Comments also may be submitted via facsimile to (828) 257–4838 or by e-mail to *mcarlson01@fs.fed.us*.

The public may inspect comments received at the Southern Research Station, 200 W.T. Weaver Boulevard, Asheville, North Carolina. Visitors are encouraged to call ahead to (828) 257–4838 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Melissa Carlson, Communications Office, (828)257–4849. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Publication Comment Card.

OMB Number: 0596–0163.

Expiration Date of Approval: July 31, 2004.

Type of Request: Extension.

Abstract: Executive Order 12862, issued September 11, 1993, directed Federal agencies to change the way they do business, to reform their management practices, and to provide service to the public that matches or exceeds the best service available in the private sector. In response to this Executive Order, the Forest Service Southern Research Station developed a "Publication Comment Card" for inclusion when distributing scientific research publications.

Since the early 1920's, Forest Service scientists have published the results of their studies about national forests and forest resources and products, in addition to their conclusions about the dynamics of natural timber stands and plantations, watershed and wildlife management, and recreational activities. These studies have provided long-term data that have become increasingly valuable to landowners and others involved in natural resource and land management. Data from the Publication Comment Cards help Forest Service research stations determine if publications meet customers' expectations and address customers' needs. The collected information also helps scientists and authors provide relevant information on effective, efficient, responsible land management in the United States.

Forest Service research personnel enclose Publication Comment Cards when providing publications to recipients in person or by mail. Public Comment Cards and most research station publications also are made available via the Internet. Public Comment Cards include the following statements that will be rated on a scale of 1 to 5, with 1 being "Strongly Agree" and 5 being "Strongly Disagree."

1. The information is what I expected, based on the title and abstract.
2. This publication is well organized.
3. The content is presented clearly.
4. The technical subject matter was explained sufficiently to meet my needs.
5. The graphics (photographs, tables, charts) were helpful.
6. This research information is useful to me.
7. I will continue to request Research Station publications.

Respondents complete Publication Comment Cards and return them in person or mail them back to the Forest Service via surface mail or electronically via the Internet.

Data gathered in this information collection are not available from other sources.

Estimate of Burden: 5 minutes.

Type of respondents: Respondents include citizens of the United States and of other countries; landowners or land lessees; timber and other forest-product customers; research scientists; forestry consultants; educators, librarians, and historians; representatives of other Federal, State, county, or local government agencies and representatives of foreign governments.

Estimated Number of Respondents: 22,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,833 hours.

Comment is invited on: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including name and address when provided, will become a matter of public record and will be available for public inspection and copying. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: March 5, 2004.

Ann M. Bartuska,

Deputy Chief for Research & Development.

[FR Doc. 04–5629 Filed 3–11–04; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: April 11, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions. If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Paper, Toilet Tissue (for the Camp French, CA depot only)
8540–00–530–3770
8540–01–380–0690
NPA: Outlook-Nebraska, Incorporated, Fremont, Nebraska.
Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Services

Service Type/Location: Custodial Services, Air National Guard Base—Reserve Buildings, Building Numbers 300, 304, 315, 320, 310, 360, 365, 355, 373, 375, 380, 494, 485, 491, 370, Portland, Oregon.
NPA: The Port City Development Center, Portland, Oregon.
Contract Activity: AF-Portland, Portland International Airport, Oregon.
Service Type/Location: Janitorial/Custodial, Navy Exchange Buildings, Newport, Rhode Island, Fort Adams, Building 402, Greenelane/Mini Mart Building 1283, Main Store and Barbershop, Building 1250, Package Store, Building 1901, Service Station/Home Mart, Building 1285, Uniform Shop/Taylor Shop, Building 1903.
NPA: CranstonArc, Cranston, Rhode Island.
Contract Activity: Navy Exchange Service Command (NEXCOM), Virginia Beach, Virginia.

G. John Heyer,

General Counsel.

[FR Doc. 04–5643 Filed 3–11–04; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: Commission on Civil Rights.

DATE AND TIME Friday, March 19, 2004; 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 9th Street, NW., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of Feburary 20, 2004, Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Report: Civil Rights Implications of Post-Steptember 11 Law Enforcement Practices in New York (New York)
VI. Future Agenda Items

10:30 a.m. Briefing on the USA Patriot Act and Related Anti-Terrorism Efforts: Balancing Homeland Security and Civil Rights.

CONTACT PERSON FOR FURTHER INFORMATION: Les Jin, Press and Communications, (202) 376–7700.

Debra A. Carr,

Deputy General Counsel.

[FR Doc. 04–5784 Filed 3–10–04; 1:12 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–847]

Persulfates From the People's Republic of China: Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limit for preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: March 12, 2004.

FOR FURTHER INFORMATION CONTACT: Greg Kalbaugh at (202) 482–3693, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 22, 2003, the Department published in the **Federal Register** a notice of initiation of administrative review of the antidumping duty order on persulfates from the People's Republic of China. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 68 FR 50750 (Aug. 22, 2003). The period of review is July 1, 2002 through June 30, 2003. The review covers one exporter of the subject merchandise to the United States.

In accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall make a preliminary determination in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend the 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period. On February 12, 2004, the Department issued a revised surrogate country selection memorandum to interested parties in this proceeding, in which: (1) Pakistan had been eliminated as an acceptable surrogate country selection; (2) Egypt and Morocco had been added as acceptable surrogate country selections; and (3) economic indicators had been updated for all countries. We requested comments from interested parties for consideration in the preliminary results by April 1, 2004. In order to allow sufficient time for interested parties to

comment and provide surrogate value information based on the revised surrogate country selection memorandum, it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with section 751(a)(3)(A) of the Act, we have fully extended the deadline until July 30, 2004.

Dated: March 8, 2004.

Jeffrey May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 04–5656 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–588–863)

Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons (TTR) from Japan.

EFFECTIVE DATE: March 12, 2004.

FOR FURTHER INFORMATION CONTACT: James Doyle at (202) 482–0159 or Paul Walker at (202) 482–0413; Office of AD/CVD Enforcement IX, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Case History

The preliminary determination in this investigation was published on December 22, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons From France*, 68 FR 71068 (December 22, 2003) (*Preliminary Determination*). Since the publication of the *Preliminary Determination*, the following events have occurred. On December 24, 2003 Union Chemicar Company Limited (UC) submitted critical circumstances information. On January 5 and January 16, 2004, petitioner, International Imaging Materials, Inc. (IIMAK), submitted additional comments regarding its allegation that respondents in the three investigations of TTR (France, Japan, and South Korea) would attempt to circumvent the order by slitting jumbo rolls in third countries, and its request that the Department therefore determine that slitting does not change the country of origin of TTR for antidumping purposes. On January 9, 2004, Armor, S.A. (Armor), the sole respondent in the French investigation, submitted additional comments on the country–of-origin issue. On January 16, 2004 Dai Nippon Printing Company Limited (DNP) submitted a request for a hearing. On February 9, 2004 the Department rejected the critical circumstances submissions made by both DNP and UC. On February 10, 2004 DNP and the Petitioner submitted case briefs. Additionally, on February 10, 2004 the Department rejected DNP's case brief because it contained the proprietary critical circumstances data which the Department had rejected on February 9, 2004. On February 13, 2004 DNP resubmitted its case brief. On February 17, 2004 DNP, UC and the Petitioner submitted rebuttal briefs. On February 20, 2004 we held a hearing on TTR from Japan. Additionally, on February 20, 2004, Ricoh Company Limited and Ricoh Electronics Inc. (collectively, Ricoh) submitted critical circumstances data. On February 23, 2004, the Department rejected Ricoh's critical circumstances data. On February 27, 2004, Fujicopian Company Limited submitted arguments supporting Ricoh's critical circumstances arguments. Please see the *Preliminary Determination* for a history of all previous comments submitted in this case.

Scope of Investigation

This investigation covers wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from Japan with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that L*<35, -20<a*<35, and -40<b*<31, and black and near–black TTR. TTR is typically used in printers generating alphanumeric and machine–readable characters, such as bar codes and facsimile machines.

The petition does not cover resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.

Please see the Issues and Decision Memorandum which accompanies this **Federal Register** notice regarding the country of origin for TTR from Japan.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.40.25, 9612.10.90.30, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99 and 3926.90. The tariff classifications are provided for convenience and U.S. Customs and Border Protection (CBP) purposes; however, the written description of the scope of the investigation is dispositive.

Period of Investigation (POI)

The POI is April 1, 2002, through March 31, 2003. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition (*i.e.*, June 2003) involving imports from a market economy, in accordance with our regulations. *See* 19 CFR § 351.204(b)(1).

Facts Available

In the *Preliminary Determination*, we based the dumping margin for the mandatory respondents, DNP and UC, on adverse facts available pursuant to sections 776(a) and 776(b) of the Act. The use of adverse facts available was warranted in this investigation because DNP withdrew its questionnaire responses from the record and UC failed to respond to any part of the antidumping duty questionnaire issued by the Department. *See Preliminary Determination*, 68 FR at 42386. The withdrawal of such information significantly impeded this proceeding because the Department could not accurately determine a margin without responses to our questionnaires. In addition, we found that DNP and UC failed to cooperate to the best of their ability. We assigned DNP and UC the highest margin stated in the notice of initiation. *See Notice of Initiation of Antidumping Duty Investigation: Thermal Transfer Ribbons From France, Japan and the Republic of Korea*, 68 FR 38305 (June 27, 2003). A complete explanation of the selection, corroboration, and application of adverse facts available can be found in the *Preliminary Determination*. *See Preliminary Determination*, 68 FR at 71070–71.

Since the publication of the *Preliminary Determination*, no interested parties have commented on our application of adverse facts available with respect to the LTFV determination. Accordingly, for the final determination, we continue to use the highest margin stated in the notice of initiation for DNP and UC. The "All Others" rate remains unchanged as well.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum for the Final Results of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan" from Joseph Spetrini to James J. Jochum (March 1, 2004) (Decision Memo), which is hereby adopted by this notice. A list of the issues which parties raised and to which we respond in the Decision Memo is attached to this notice as an Appendix. The Decision Memo is a public document and is on file in the Central Records Unit, Main Commerce Building, Room B–099, and is accessible on the Web at *www.ia.ita.doc.gov*.

Final Critical Circumstances Determination

On November 26, 2003 the petitioner in this investigation, International Imaging Materials Inc. (IIMAK), submitted an allegation of critical circumstances with respect to imports of wax and wax/resin thermal transfer ribbons from Japan. On December 22, 2003, the Department issued its *Preliminary Determination* that it had reason to believe or suspect critical circumstances exist with respect to imports of TTR from Japan. *See Preliminary Determination*, 68 FR at 71074–76. We now find that critical circumstances exist for imports of wax and wax/resin thermal transfer ribbons from Japan. *See* Decision Memo at Comment 2.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all entries of subject merchandise from Japan, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* for "all other" Japanese exporters. The Department will direct CBP to suspend liquidation of all entries of TTR from Japan that are entered, or withdrawn from warehouse, on or after 90 days before the date of publication of the *Preliminary Determination* for DNP and UC. CBP shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension of liquidation instructions will remain in effect until further notice.

We determine that the following dumping margins exist for the POI:

Manufacturer/exporter	Margin (percent)
DNP	147.30
UC	147.30
All Others	106.60

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from Japan are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 1, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

APPENDIX

List of Issues

1. Country of Origin
2. Critical Circumstances

[FR Doc. 04–5655 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 03–00008.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the California Pistachio Export Council, LLC ("CPEC"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by E-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2003).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certification in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

California in-shell and shelled pistachios, raw and roasted, in all forms.

2. Export Trade Facilitation Services (as They Relate to the Export of Products)

All export trade-related facilitation services, including but not limited to: Development of trade strategy; sales, marketing, and distribution; foreign market development; promotion; and all aspects of foreign sales transactions, including export brokerage, freight forwarding, transportation, insurance, billing, collection, trade documentation, and foreign exchange; customs, duties, and taxes; and inspection and quality control.

Export Markets

The Export Markets include all parts of the world except the United States (the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of theNorthern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. CPEC and/ or one or more of its Members, including through Export Intermediaries (to the extent provided in section 1.g) may:

a. *Export Sales Price.* Establish sales price, minimum sales price, target sales price and/or minimum target sales price, and other terms of sale in the Export Markets;

b. *Marketing and Distribution.* Conduct marketing and distribution of Products in the Export Markets;

c. *Promotion.* Conduct joint promotion of Products in the Export Markets;

d. *Quantities.* Agree on quantities of Products to be sold in the Export Markets, provided each Member shall be required to dedicate only such quantity or quantities as each such Member shall independently determine. CPEC shall not require any Member to export a minimum quantity;

e. *Market and Customer Allocation.* Allocate geographic areas or countries in the Export Markets and/or customers in the Export Markets among Members;

f. *Refusals to Deal.* Refuse to quote prices for Products, or to market or sell Products, to or for any customers in the Export Markets, or any countries or geographical areas in the Export Markets;

g. *Exclusive and Nonexclusive Export Intermediaries.* Enter into exclusive and nonexclusive agreements appointing one or more Export Intermediaries for the sale of Products with price, quantity, territorial and/or customer restrictions as provided in sections 1.a through 1.f, inclusive, above;

h. *Non-Member Activities.* Purchase Products from non-Members to fulfill specific sales obligations in the Export Markets, provided that CPEC and/or its Members shall make such purchases only on a transaction-by-transaction basis and when the Members are unable to supply, in a timely manner, the requisite Products at a price competitive under the circumstances. Such purchases shall be made through a third party broker, and neither CPEC nor any Member shall directly contact any non-Member supplier in connection with such purchases. In no event shall a non-Member supplier be included in any deliberations concerning any Export Trade Activities; and

i. *Transportation Activities.* Negotiate favorable transportation rates (volume discounts) and consolidate shipments to or within the Export Markets.

2. CPEC and its Members may exchange and discuss the following information:

a. Information about sales and marketing efforts for the Export Markets, activities and opportunities for sales of Products in the Export Markets, selling strategies for the Export Markets, sales for the Export Markets, contract and spot pricing in the Export Markets, projected demands in the Export Markets for Products, customary terms of sale in the Export Markets, prices and availability of Products from competitors for sale in the Export Markets, and specifications for Products by customers in the Export Markets;

b. Information about the price, quality, source, and delivery dates of Products available from the Members to export;

c. Information about terms and conditions of contracts for sale in the Export Markets to be considered and/or bid on by CPEC and its Members;

d. Information about joint bidding or selling arrangements for the Export Markets;

e. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans- or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes;

f. Information about U.S. and foreign legislation and regulations, including federal marketing order programs, affecting sales for the Export Markets;

g. Information about CPEC or its Members' export operations, including without limitation, sales and distribution networks established by CPEC or its Members in the Export Markets, and prior or current export sales by individual Members (including export price information); and

h. Information about export customer credit terms and credit history.

3. CPEC and its Members may meet to engage in the activities described in paragraphs 1 and 2 above.

4. CPEC may, on a transaction by transaction basis, join with any or all of the Members to bid for the sale of, and to sell, Products to the Export Markets.

5. On a transaction by transaction basis, for the purposes of allocating export quantities, the quantity that CPEC and/or one or more of its Members will commit to the sale will be determined in the following manner:

a. CPEC and the participating Member(s) or non-Member(s) will, without prior consultation, provide above-described quantity data to an Independent Third Party.

b. The Independent Third Party will independently incorporate such information into the joint sales or bid agreement. For the purposes of this provision, "independently" means that the Independent Third Party will not disclose the information obtained from CPEC to another Member, non-Member and/or CPEC.

c. Neither CPEC nor any participating Member shall intentionally obtain the information described in 5(a) above from the Independent Third Party.

Definitions

1. "Export Intermediary" means a person (including a Member) who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing, or arranging for, the provision of Export Trade Facilitation Services.

2. "Independent Third Party" shall mean any individual, partnership, corporation (public or non-public) or other entity (hereinafter referred to as "entity"), or any representative thereof, that is not an officer, director, principal, affiliate, subsidiary or employee of CPEC or any entity that grows, processes, packs, or handles Products.

3. "Member" means a person who has membership in the CPEC Export Trade Certificate of Review and who has been certified as a "Member" within the meaning of section 325.2(*l*) of the Regulations (15 CFR 325.2(*l*) (2003), (currently as set out in Attachment A and incorporated by reference).

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: March 8, 2004.

Jeffrey C. Anspacher,

Director, Office of Export Trading Company Affairs.

Attachment A

Members (within the meaning of section 325.2(*l*) of the Regulations):

A&P Growers Cooperative, Inc.
Gold Coast Pistachios, Inc.
Keenan Farms, Inc.
Monarch Nut Company
Nichols Pistachio
Primex Farms, LLC

Setton Pistachio of Terra Bella, Inc.

[FR Doc. 04–5582 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Invention Available for Nonexclusive Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government owned invention available for nonexclusive licensing.

SUMMARY: The invention listed below is owned in whole by the U.S. Government, as represented by the Department of Commerce. The invention is available for nonexclusive licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Attn: Mary Clague, Building 820, Room 213, Gaithersburg, MD 20899. Information is also available via telephone: 301–975–4188 , fax 301–869–2751, or e-mail: *mary.clague@nist.gov*. Any request for information should include the NIST Docket number and title for the invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement ("CRADA") with the licensee to perform further research on the invention for purposes of commercialization. The invention available for nonexclusive licensing is:

NIST Docket Number: 00–028US

Title: Suspended Dry-Dock Platform.

Abstract: A cable-supported platform that can precisely manipulate workers, tools/equipment and loads using position, velocity and force control modes. The platform uses six cables that attach to four support points on towers, walls or other structural supports so as to provide constraint and control of the suspended platform. The cable lengths can be independently controlled by hoist drive-mechanisms and coordinated to achieve intuitive platform movement in all six degrees-of-freedom (side-to-side, forward-and-back, up-and-down, and all three rotations about these motions: roll, pitch and yaw). The platform, consisting of servo components (*i.e.*, hoist, amplifier, servo interface, sensory feedback), can be rapidly reconfigured to adjust to new applications. Initial applications address worker/equipment access challenges in dry dock ship and submarine repair and conversion. It can also be used for construction, high bays, and dam repair and maintenance. Various combinations of manual and automatic control can also be implemented. The hoists can be controlled manually by a multi-axis joystick, or can be automatically controlled by a computer.

Dated: March 5, 2004.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 04–5665 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021704B]

Groundfish Fisheries of the Bering Sea and Aleutian Islands (BSAI) Area and the Gulf of Alaska, King and Tanner Crab Fisheries in the BSAI, Scallop and Salmon Fisheries off the Coast of Alaska; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Correction.

ACTION: Correction to a notice.

SUMMARY: This document corrects a March 5, 2004, notice of public meetings for the Draft Environmental Impact Statement (DEIS) for Essential Fish Habitat (EFH) Identification and Conservation in Alaska. This action is necessary to correct an error in the meeting time for the Seattle, Washington, meeting.

DATES: Effective March 12, 2004.

FOR FURTHER INFORMATION CONTACT: Mary B. Goode, (907) 586–7636.

SUPPLEMENTARY INFORMATION: NMFS published a notice announcing public meetings during the DEIS's comment period on March 5, 2004 (69 FR 190428), FR Doc. 04–5019. Meetings will be held in three locations: Seattle, WA, Anchorage, AK, and Juneau, AK. The notice erroneously announced times for the Seattle meeting as Alaska local time, rather than Pacific local time. This action corrects this error.

Correction

Accordingly, in Column 3, under the heading "Meeting Dates, Times, and Locations," in line 4, remove the following text "Alaska local time (ALT)" and replace it with the following: "Pacific local time", and in line 9, remove the following text "ALT" and replace it with the following: "Alaska local time (ALT)".

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 8, 2004.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–5700 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030404E]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that NMFS has prepared a draft Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) of the impacts on the human environment of the potential issuance of an enhancement permit authorizing take of listed chinook salmon in Johnson Creek, a tributary of the East Fork South Fork Salmon River in Idaho, associated with the operation of an artificial propagation program. The objectives of the program, which would be operated by the Nez Perce Tribe, are to conduct artificial propagation and research activities to enhance the propagation and survival of the population of naturally spawning summer chinook salmon in Johnson Creek, which are listed under the Endangered Species Act (ESA) as part of the threatened Snake River spring/summer chinook salmon Evolutionarily Significant Unit (ESU). This document serves to notify the public of the availability of the draft EA for review and comment before a final decision on whether to issue a Finding of No Significant Impact is made by NMFS.

DATES: Written comments on the draft EA must be received at the appropriate address or fax number (see **ADDRESSES**)

no later than 5 p.m. Pacific standard time on April 12, 2004.

ADDRESSES: Written comments and requests for copies of the draft EA should be addressed to Herb Pollard, Salmon Recovery Division, 10215 W. Emerald, Suite 180, Boise, ID 83704, or faxed to (208) 378–5699. Comments on this draft EA may be submitted by e-mail. The mailbox address for providing e-mail comments is *JCAPE.nwr@noaa.gov*. Include in the subject line the following document identifier: "JCAPE permit assessment". The documents are also available on the Internet at *http://www.nwr.noaa.gov/1sustfsh/10permits/*.

FOR FURTHER INFORMATION CONTACT: Herb Pollard, Boise, ID, at phone number (208) 378–5614 or e-mail: *herbert.pollard@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the following species and evolutionarily significant units (ESUs):

Chinook salmon (*Oncorhynchus tshawytscha*): threatened Snake River spring/summer-run.

Steelhead (*O. mykiss*): threatened Snake River Basin.

Background

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may affect the human environment. NMFS expects to take action on an ESA section 10(a)(1)(A) submittal received from the applicants. Therefore the Service is seeking public input on the scope of the required NEPA analysis, including the range of reasonable alternatives and associated impacts of any alternatives.

The Columbia River Intertribal Fish Commission (CRITFC) has submitted an application for a section 10(a)(1)(A) enhancement permit for operation of an artificial propagation program on Johnson Creek, ID. Notice of receipt of this permit application was published in the **Federal Register** on May 11, 2000 (65 FR 30391) and closed on June 12, 2000.

The primary goal of CRITFC's proposed hatchery supplementation program is to increase the abundance of the natural chinook salmon population in Johnson Creek and to avoid further losses of the genetic variation that may be necessary to recover the population. NMFS proposes to issue a section 10(a)(1)(A) permit for operation of the program to rear and release approximately 100,000 juveniles annually. The artificial propagation action would include collecting and spawning adult threatened Snake River spring/summer chinook salmon, using the resulting progeny in scientific research, enhancing the propagation or survival of the listed population, and subsequently releasing juveniles that are the progeny of listed fish into the wild. The Nez Perce Tribe, acting under the permit requested by CRITFC, also proposes to install and operate a weir, a trap, and holding facilities for collection of listed Snake River spring/summer chinook salmon adults from Johnson Creek to enhance the propagation and conduct research on the listed species of salmon.

The general effects on the environment considered include the impacts on the physical, biological, and socioeconomic environments of the Snake River Basin, particularly in the Johnson Creek sub-basin.

Dated: March 8, 2004.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–5697 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030304F]

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Trawl Survey Advisory Committee, composed of representatives from the Northeast Fisheries Science Center (NEFSC), the Mid-Atlantic Fishery Management Council (MAFMC), the New England Fishery Management Council (NEFMC), and several independent scientific researchers, will hold a public meeting.

DATES: The meeting will be held on Thursday, April 15, 2004, from 9 a.m. to 5 p.m. and Friday, April 16, 2004, from 8 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Radisson Airport Hotel Providence, 2081 Post Road, Warwick, RI; telephone: 401–739–3000.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Room 2115, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to assist the NEFSC in developing effective and consistent trawl survey protocols and practices for the trawl surveys. The Committee will be describing what they envision the scientific sampling gear should do in terms of the sampling focus and performance. They will be making recommendations on the new gear fishing package for the new research vessel.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid-Atlantic Council office (*see* **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: March 4, 2004.

Peter H. Fricke,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–5698 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030304E]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scientific and Statistical Committee in March, 2004 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will

be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on March 26, 2004, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Inn Providence Airport, 1850 Post Road, Warwick, RI 02886; telephone: (401) 738–4000.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Scientific and Statistical Committee will address some issues relating to the Council's use of stock assessment advice and attempt to provide the Council with an understanding of why changes or differences in assessment advice may be very large as in the case of a recent Georges Bank yellowtail flounder assessment. Some other questions that the committee will consider are: (1) what kind of information should be collected and how should the Council direct funding and research to make stock assessments more reliable and robust; (2) how should the Council interpret and use virtual population analyses (VPAs), including weighting terminal year estimates of fishing mortality; (3) should other assessment models be used to compare VPA results; and (4) how should the Council handle retrospective patterns or errors in fishing mortality and biomass estimates?

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (*see* **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: March 4, 2004.

Peter H. Fricke,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–5699 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030404C]

Endangered Species; Permit No. 1231

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for modification.

SUMMARY: Notice is hereby given that Llewellyn M. Ehrhart, Department of Biology, University of Central Florida, 4000 Central Florida Blvd., Orlando, FL 32816–2368, has requested a modification to scientific research Permit No. 1231.

DATES: Written, telefaxed, or e-mail comments must be received on or before April 12, 2004.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Comments may be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: Modification of Permit No. 1231.

FOR FURTHER INFORMATION CONTACT: Patrick Opay, (301)713–1401 or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 1231, issued on June 9, 2000 (65 FR 36666) is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 1231 authorizes the permit holder to take listed sea turtles inhabiting the Indian River Lagoon system, Indian River County; the nearshore Atlantic Sabellariid worm rock reef system, Indian River County; and the Trident submarine basin in Port Canaveral, Brevard County, Florida. The study is helping to gather information regarding habitat requirements, seasonal distribution and abundance, movement and growth, feeding preferences, sex ratios and the prevalence and severity of fibropapilloma. The permit holder requests authorization to expand the ongoing population assessment project by tracking the movements of juvenile green (*Chelonia mydas*) sea turtles. This modification will allow the permit holder to obtain additional information about this species' movement patterns and its utilization of habitat. The permit holder proposes to attach a transmitter and time-depth-temperature recorder to 14 of the green sea turtles that are already authorized to be captured under the existing permit. Turtles will be also be sampled, measured, weighed, and tagged before being released. This research will take place in the waters within the Indian River Lagoon on the east coast of Florida for the remaining duration of the permit which expires on March 31, 2005.

Dated: March 8, 2004.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–5695 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030404G]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of the receipt of an exempted fishing permit (EFP)

application; announcement of the intent to issue the EFP; request for comments.

SUMMARY: NMFS announces the receipt of an application, and the intent to issue EFPs for vessels participating in an observation program to monitor the incidental take of salmon and groundfish in the shore-based component of the Pacific whiting fishery. The EFPs are necessary to allow trawl vessels fishing for Pacific whiting to delay sorting their catch, and thus to retain prohibited species and groundfish in excess of cumulative trip limits until the point of offloading. These activities are otherwise prohibited by Federal regulations.

DATES: Comments must be received by March 29, 2004. The EFPs will be effective no earlier than April 1, 2004, and will expire no later than May 31, 2005, but could be terminated earlier under terms and conditions of the EFPs and other applicable laws.

ADDRESSES: Send comments or request for copies of the EFP application to Becky Renko, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115 0070 or email *EFPwhiting2004.nwr@noaa.gov*. Comments sent via email, including all attachments, must not exceed a 10 megabyte file size.

FOR FURTHER INFORMATION CONTACT: Becky Renko or Carrie Nordeen at (206) 526 6150.

SUPPLEMENTARY INFORMATION: This action is authorized by the Magnuson-Stevens Fishery Conservation and Management Act provisions at 50 CFR 600.745 which states that EFPs may be used to authorize fishing activities that would otherwise be prohibited. At the November 2003 Pacific Fishery Management Council (Council) meeting in Del Mar, California, NMFS received an application for these EFPs from the States of Washington, Oregon, and California. An opportunity for public testimony was provided during the Council meeting. The Council recommended that NMFS issue the EFPs, as requested by the States.

Issuance of these EFPs, to about 40 vessels, will continue an ongoing program to collect information on the incidental catch of salmon and groundfish in whiting harvests delivered to shore-based processing facilities by domestic trawl vessels. Because whiting deteriorates rapidly, it must be handled quickly and immediately chilled to maintain the quality. As a result, many vessels dump catch directly or near directly into the hold and are unable to effectively sort their catch.

The issuance of EFPs will allow vessels to delay sorting of groundfish catch in excess of cumulative trip limits and prohibited species until offloading. These activities are otherwise prohibited by regulation. For 2004, video cameras that are provided by NMFS, will be used to monitor full retention at sea. Information gathered from video cameras may be used to assess the effectiveness of video monitoring for full retention monitoring programs.

Delaying sorting until offloading will allow samplers located at the processing facilities to collect incidental catch data for total catch estimates and will enable whiting quality to be maintained. Without an EFP, groundfish regulations at 50 CFR 660.306(b) require vessels to sort their prohibited species catch and return them to sea as soon as practicable with minimum injury. Similarly, regulations at 50 CFR 660.306(f) prohibit the retention of groundfish in excess of the published trip limits.

In addition to providing information that will be used to monitor the attainment of the shore-based whiting allocation, information gathered through these EFPs is expected to be used in a future rulemaking. For 2005, NMFS intends to implement, through federal regulation, a monitoring program for the shore-based Pacific whiting fleet. The Council recommended using EFPs only until a permanent monitoring program can be developed and implemented. NMFS is developing a preliminary draft Environmental Assessment which includes a range of alternative monitoring systems for the shore-based Pacific whiting fishery. At its September 2003 meeting, the Council considered a preliminary range of alternatives for a monitoring program which focus on three major issues: (1) the monitoring program (i.e., federal observers, state monitors, video cameras, or a combination thereof); (2) tracking and disposition of prohibited species and groundfish overages; and (3) mechanisms for funding of the monitoring program. At its April 2004 meeting, the Council is expected to adopt a revised range of alternatives for public review that cover these same issues. At its September 2004 meeting, the Council is expected to make final recommendations to NMFS regarding this monitoring program. NMFS will then prepare a proposed rule, that will include a public comment period, followed by a final rule implementing a monitoring program before the start of the 2005 shore-based primary Pacific whiting season.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 8, 2004.

Peter H. Fricke,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–5694 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030404F]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Applications for three scientific research permits (1127, 1465, 1469) and two permit modifications (1119, 1366).

SUMMARY: Notice is hereby given that NMFS has received three scientific research permit applications and two applications to modify existing permits relating to Pacific salmon and steelhead. All of the proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the applications or modification requests must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight-saving time on April 12, 2004.

ADDRESSES: Written comments on the applications or modification requests should be sent to Protected Resources Division, NMFS, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737. Comments may also be sent via fax to 503–230–5435 or by e-mail to *resapps.nwr@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (ph.: 503–231–2005, Fax: 503–230–5435, e-mail: *Garth.Griffin@noaa.gov*). Permit application instructions are available at *http://www.nwr.noaa.gov*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species and evolutionarily significant units (ESUs) are covered in this notice:

Sockeye salmon (*Oncorhynchus nerka*): endangered Snake River (SR).

Chinook salmon (*O. tshawytscha*): endangered natural and artificially propagated upper Columbia River (UCR); threatened natural and

artificially propagated SR spring/summer (spr/sum); threatened SR fall; threatened lower Columbia River (LCR).

Steelhead (*O. mykiss*): threatened SR; threatened middle Columbia River (MCR); endangered UCR, threatened LCR.

Coho Salmon (*O. kisutch*): threatened Southern Oregon/Northern California Coast (SONCC).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits/modifications based on findings that such permits and modifications: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA.

Applications Received

Permit 1119 - Modification 1

The U.S. Fish and Wildlife Service (FWS) is seeking to modify its 5–year permit covering five studies that, among them, would annually take adult and juvenile endangered UCR spring chinook salmon (natural and artificially propagated) and UCR steelhead (natural and artificially propagated) at various points in the Wenatchee, Entiat, Methow, Okanogan, and Yakima River watersheds and other points in eastern Washington State. The research was originally conducted under Permit 1119, which was in place for 5 years (63 FR 27055) with two amendments (65 FR 11288, 66 FR 38641); it expired on December 31, 2002. A new permit was granted for the research in 2003, and the FWS is seeking to modify that permit to change the take allotment and add a sixth study. Over the years, there have been some changes in the research (e.g., the aforementioned amendments) and they are reflected in this proposal. Nonetheless, the proposed projects are largely continuations of ongoing research. They are: Study 1–Recovery of ESA-listed Entiat River Salmonids through Improved Management Actions; Study 2–From extirpation to colonization: an attempt to restore salmon back to their former streams; Study 3–Entiat Basin Spawning Ground Surveys; Study 4–Snorkel Surveys in the Wenatchee, Entiat, Methow, Okanogan, and Yakima Watersheds and Other Waterways of Eastern Washington; Study 5–Fish Salvage Activities in the Wenatchee, Entiat, Methow, Okanogan, and Yakima Watersheds and other Waterways of Eastern Washington; Study 6–Icicle Creek Salmonid Production and Life History Investigations. Under these studies, listed adult and juvenile salmon and steelhead would be variously (a) captured (using nets, traps, and electrofishing equipment) and anesthetized; (b) sampled for biological information and tissue samples; (c) tagged with passive integrated transponders (PIT tags) or other identifiers; (d) marked and recaptured to determine trap efficiency, and (e) released.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purposes of the research are to (a) gain current information on the status and productivity of various fish populations (to be used in determining the effectiveness of restoration programs); (b) collect data on the how well artificial propagation programs are helping salmon recovery efforts (looking at hatchery and wild fish interactions); (c) support the aquatic species restoration goals found in several regional plans; and (d) fulfill ESA requirements for several fish hatcheries. The fish would benefit through improved recovery actions, better designs for hatchery supplementation programs, and by being rescued outright when they are stranded by low flows in Eastern Washington streams. The FWS does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1127

The Shoshone-Bannock Tribe is seeking to renew a 5–year permit to annually take threatened juvenile and adult SR spr/sum chinook salmon and steelhead during the course of two research projects in the Salmon River subbasin: The Snake River Habitat Enhancement (SRHE) project and the Idaho Supplementation Studies (ISS) project. Under the two ongoing projects (the SRHE was initiated in 1984, the ISS in 1998), the fish would be variously observed, captured, anesthetized, handled, implanted with passive integrated transponder (PIT) tags, allowed to recover, and released back to the habitats from which they were taken.

The purposes of the research are to (a) monitor adult and juvenile fish in key upper SR basin watersheds, (b) assess the utility of hatchery chinook salmon in increasing natural populations in the Salmon and Clearwater Rivers, and (c) evaluate the genetic and ecological impacts of hatchery chinook salmon on natural populations. The fish will primarily benefit from the research in two ways. First, the research will broadly be used to help guide restoration and recovery efforts throughout the SR basin. Second, and more specifically, the research will be used to determine how hatchery supplementation can be used as a tool for salmon recovery. The Shoshone-Bannock Tribe does not intend to kill any of the fish being captured, but some may die as an unintended result of the research.

Permit 1366 - Modification 2

The Oregon Cooperative Fish and Wildlife Research Unit (OCFWRU) is asking to modify its 5–year permit allowing it to annually take juvenile threatened SR fall chinook salmon; juvenile threatened SR spring/summer chinook salmon (natural and artificially propagated); juvenile endangered UCR spring chinook salmon (natural and artificially propagated); juvenile threatened LCR chinook salmon; juvenile endangered UCR steelhead (natural and artificially propagated); juvenile threatened LCR steelhead; juvenile threatened MCR steelhead; juvenile threatened SR steelhead; and juvenile endangered SR sockeye salmon at various dams on the Columbia and Snake Rivers. The research is largely a continuation of four ongoing studies in the lower Snake and Columbia Rivers, but only one, Study 4 Evaluation of Migration and Survival of Juvenile Salmonids Following Transportation would be modified. Under this study, juvenile listed salmonids would be variously (a) captured using lift nets or dipnets at the dams (or acquired from Columbia River Smolt Monitoring Program or NMFS personnel at Bonneville Dam), (b) sampled for biological information or tagged with radiotransmitters, and (c) released. The OCFWRU does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purpose of the research is to compare biological and physiological indices of wild and hatchery juvenile

fish exposed to stress during bypass, collection, and transportation activities at the dams. The research will benefit the listed species by helping determine what effects the dams and their associated structures and management activities transportation, in particular have on the outmigrating salmonids and using that information modify those factors in ways that increase salmonid survival.

Permit 1465

The Idaho Department of Environmental Quality (IDEQ) is requesting a 5–year permit to annually take juvenile threatened SR steelhead, fall chinook salmon, spr/sum chinook salmon, and endangered SR sockeye salmon during the course of two research projects designed to ascertain the condition of many Idaho streams and determine the degree to which they meet certain critical stream health parameters. The fish will largely be captured using backpack electrofishing equipment (though boat electrofishing equipment may also be used), weighed and measured (some may be anesthetized to limit stress), and released. The IDEQ does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

The purposes of the research are to (a) determine whether aquatic life is being properly supported in Idaho's rivers, streams and lakes, and (b) assess the overall condition of Idaho's surface waters. The fish will benefit from the research because the data it produces will be used to inform decisions about how and where to protect and improve water quality in the State.

Permit 1469

The Ecosystems Research Institute (ERI) is requesting a 2–year research permit to annually handle threatened juvenile SONCC coho salmon in the Applegate River. The purpose of the research is to measure outmigration rates from the Applegate Reservoir to determine current fish entrainment and mortality. The ERI is proposing to construct a hydroelectric power plant on the Applegate Dam. The study is needed to determine the impacts the project's hydroelectric turbines would have on outmigrating reservoir fish. The research will benefit natural SONCC coho by providing current outmigration estimates of artificially propagated coho and gamefish that may affect the SONCC population through genetic introgression and by predation. The ERI proposes to capture the fish (using a screw trap), anesthetize them, check them for the presence of an adipose clip, measure them, allow to them recover, and release them. The ERI does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30–day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: March 8, 2004.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–5696 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Patent Appeals and Interferences

ACTION: New collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on this new information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 11, 2004.

ADDRESSES: Direct all written comments to Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, 703–308–7400, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313, Attn: CPK 3 Suite 310; by e-mail at *susan.brown@uspto.gov;* or by facsimile at 703–308–7407.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Richard Torczon, 703–308–9797; or by e-mail at *BPAI.Rules@uspto.gov* with "Paperwork" in the subject line.

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) established the Board of Patent Appeals and Interferences (BPAI or Board) under 35 U.S.C. 6(b). This statute directs BPAI to "on written appeal of an applicant, review adverse decisions of examiners upon applications for patent and shall determine priority and patentability of invention in interferences." BPAI has the authority under 35 U.S.C. 134, 135, 306, and 315 to review ex parte and inter partes appeals and interferences. In addition, 35 U.S.C. 6 establishes the membership of BPAI as the Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the Administrative Patent Judges, one of which serves as the Chief Judge and another as the Vice Chief Judge. Each appeal and interference is heard by a merits panel of at least three members of the Board.

Under the statute, the Board's two main responsibilities include the review of ex parte appeals from adverse decisions of examiners in those situations where a written appeal is taken by a dissatisfied applicant, and the administration of interferences to "determine priority" (or decide who is the first inventor) whenever an applicant claims the same patentable invention that is already claimed by another applicant or patentee. In inter partes reexamination appeals, BPAI reviews decisions adverse to a patent owner or a third-party requestor.

BPAI does not currently collect appeal and interference information electronically, but is working on a pilot program that would provide electronic filing in contested cases. Once the pilot program is completed, the results of this program will be analyzed to determine whether electronic filing will be beneficial enough to deploy a production system. BPAI disseminates opinions and decisions to the public through the USPTO's Web site, as well as disseminating them through various publications and databases.

Publication of opinions and binding precedent is governed by BPAI's Standard Operating Procedure 2 (Revision 4) for the "Publication of Opinions and Binding Precedent," effective March 29, 2000. Opinions are categorized as either precedential opinions, which when published provide the criteria and authority that BPAI uses to determine all related cases (unless overruled or changed by statute), or as non-precedential opinions that the authoring judge or panel determines may be published. These opinions are not binding on BPAI, and the authoring

judge or panel can also decide that they should not be published. Since public policy favors a widespread publication of opinions, BPAI publishes many of its opinions, even those that are not binding precedent.

Certain opinions and decisions in decided appeals and interference cases are published. Public availability to records involved in terminated and pending cases varies, depending upon statute and regulation. The public can inspect terminated interference files and application and patent files involved in terminated interferences subject to statutory and regulatory limitations on their availability. Pending interference files are not available to the public (although pending application files may be available, subject to eighteen-month publication requirements).

The USPTO has determined that the forms for the Requests for Oral Hearing Before the Board of Patent Appeals and Interferences (PTO/SB/32) and the Notices of Appeal (PTO/SB/31), which are currently approved by OMB under 0651–0031 Patent Processing (Updating), should be moved into this new collection since these forms are used for requesting appeals and interferences. Therefore, the USPTO requests that these forms be moved into this new collection. In addition, this new collection contains two requirements, Extensions of Time on a Showing of Good Cause and Requests for Interferences, which have not previously been submitted separately to OMB for review and approval.

There are no forms associated with the Extensions of Time on a Showing of Good Cause or the Requests for Interference. However, both are governed by rules, specifically 37 CFR 1.136(b), 1.604, and 1.607. Failure to comply with the appropriate rule may result in dismissal or denial of the paper.

II. Method of Collection

By mail or hand delivery when parties file Notices of Appeal, Requests for Oral Hearings Before the Board of Patent Appeals and Interferences, Requests for Extensions of Time on a Showing of Good Cause, or Requests for an Interference.

III. Data

OMB Number: 0651–00XX.

Form Number(s): PTO/SB/31 and PTO/SB/32.

Type of Review: New information collection.

Affected Public: Individuals or households; business or other for profit; not-for-profit institutions; Federal Government; and State, local or tribal Government.

Estimated Number of Respondents: 17,410 total responses per year. Of this total, it is estimated that 750 Requests for Oral Hearings Before the Board of Patent Appeals and Interferences, 16,500 Notices of Appeal, 10 Extensions of Time on a Showing of Good Cause, and 150 Requests for an Interference will be submitted per year.

Estimated Time Per Response: The USPTO estimates that it will take approximately 12 minutes (0.20 hours) each to complete the Requests for Oral Hearings Before the Board of Patent Appeals and Interferences, and Notices of Appeal, 4 hours to complete the Extensions of Time on a Showing of Good Cause, and 16 hours to complete Requests for an Interference.

Estimated Total Annual Respondent Burden Hours: 5,890 hours per year.

Estimated Total Annual Respondent Cost Burden: $1,838,140. The USPTO believes that the Requests for Oral Hearings Before the Board of Patent Appeals and Interferences, the Notices of Appeal, the Extensions of Time on a Showing of Good Cause, and the Requests for an Interference will be completed by associate attorneys. The USPTO estimates that the typical professional hourly rate for the associate attorneys completing the Requests for Oral Hearings Before the Board of Patent Appeals and Interferences, the Notices of Appeal, and the Extensions of Time on a Showing of Good Cause will be $286, and that the professional hourly rate for the associate attorneys completing the Request for an Interference will be $350. Therefore, the USPTO estimates that the salary costs for the attorneys completing these requirements will be $1,838,140 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Requests for Oral Hearing Before the Board of Patent Appeals and Interferences	12 minutes	750	150
Notices of Appeal	12 minutes	16,500	3,300
Extensions of Time on a Showing of Good Cause	4 hours	10	40
Requests for an Interference	16 hours	150	2,400
Totals		17,410	5,890

Estimated Total Annual Non-Hour Respondent Cost Burden: $5,000,847. There are postage costs and filing fees associated with this information collection. This collection has no capital start-up, operation or maintenance costs.

There are postage costs of $8,547 for mailing the requirements in this collection to the USPTO.

Item	Responses (yr) (a)	Postage costs (b)	Total cost (yr) (a × b)
Requests for Oral Hearing Before the Board of Patent Appeals and Interferences	750	$0.49	$368.00
Notices of Appeal	16,500	$0.49	8,085.00
Extensions of Time on a Showing of Good Cause	10	$0.37	4.00
Requests for an Interference	150	$0.60	90.00
Totals	17,410		8,547.00

There are filing fees associated with the Requests for an Oral Hearing Before the Board of Patent Appeals and Interferences and the Notices of Appeal; the Extensions of Time on a Showing of Good Cause and the Requests for an

Interference do not have filing fees. The total filing fees associated with this information collection are $4,992,300.

Item	Responses (yr) (a)	Filing Fees (b)	Total Cost (yr) (a × b)
Requests for Oral Hearing Before the Board of Patent Appeals and Interferences	600	$290.00	$174,000.00
Requests for Oral Hearing Before the Board of Patent Appeals and Interferences (small entity)	150	145.00	21,750.00
Notices of Appeal	12,570	330.00	4,148,100.00
Notices of Appeal (small entity)	3,930	165.00	648,450.00
Extensions of Time on a Showing of Good Cause	10	0.00	0.00
Requests for an Interference	150	0.00	0.00
Totals	17,410		4,992,300.00

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 5, 2004.

Susan K. Brown,

Records Officer, Patent and Trademark Office, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 04–5616 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–16–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 18 March 2004 at 10:00 am in the Commission's offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street, NW., Washington, DC 20001–2728. Items of discussion affecting the appearance of Washington, DC, may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site *www.cfa.gov*. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, 28 February 2004.

Charles H. Atherton,

Secretary.

[FR Doc. 04–5645 Filed 3–11–04; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Federative Republic of Brazil

March 8, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting a limit.

EFFECTIVE DATE: March 12, 2004.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 363 is being decreased for carryforward applied in 2003.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 63070, published on November 7, 2003.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 8, 2004.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 3, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on March 12, 2004, you are directed to decrease the current limit for Category 363 to 44,916,055 numbers [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E4–548 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–DR–S

[1] The limit has not been adjusted to account for any imports exported after December 31, 2003.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Cambodia

March 8, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting a limit.

EFFECTIVE DATE: March 15, 2004.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 347/348/647/648 is being adjusted for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 68597, published on December 9, 2003.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 8, 2004.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 4, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Cambodia and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on March 15, 2004, you are directed to reduce the current limit for Categories 347/348/647/648 to 4,349,486 dozen [1], as provided for in the agreement between the Governments of the United States and Cambodia:

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E4–549 Filed 3–11–04; 8:45 a.m.

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Shock Trial of a SAN ANTONIO (LPD 17) Class Amphibious Assault Ship

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy (Navy) announces its intent to prepare an Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) to evaluate the potential environmental impacts associated with conducting a shock trial on a SAN ANTONIO (LPD 17) Class Amphibious Assault Ship, at a site located off the East Coast or Gulf Coast of the United States. Pursuant to 40 CFR 1501.6, the Navy has requested that the National Marine Fisheries Service (NMFS) act as a Cooperating Agency.

A "shock trial" is necessary to evaluate the effect that shock waves, resulting from a series of underwater explosions and designed to emulate conditions encountered in combat, have when they propagate through a ship's hull. The congressionally mandated (10 U.S.C. 2366) Live Fire Test and Evaluation (LFT&E) Program requires realistic survivability testing on each new class of Navy ships. A "shock trial" is a component of the Navy's LFT&E program to ensure survivability. The shock trial results provide important information that is applied to follow-on ships and is used to improve the initial ship design and enhance the effectiveness and overall survivability of the ship and crew. Shock trials have proven their value as recently as the Persian Gulf War when ships were able to survive battle damage and continue their mission because of ship design, crew survivability, and crew training lessons learned during previous shock tests.

DATES: Public scoping meetings will be held in Norfolk, VA; Jacksonville/Atlantic Beach, FL; and Pascagoula, MS, to receive oral and/or written comments on environmental concerns that should be addressed in the EIS/OEIS. The public meeting dates are:

1. Tuesday, April 20, 2004, from 6 p.m. to 8 p.m., in Norfolk, VA.
2. Wednesday, April 21, 2004, from 6 p.m. to 8 p.m., in Jacksonville/Atlantic Beach, FL.
3. Thursday, April 22, 2004, from 6 p.m. to 8 p.m., in Pascagoula, MS.

ADDRESSES: The public meeting locations are:

1. *Norfolk, VA:* Lafayette Branch Public Library, 1610 Cromwell Drive, Norfolk, VA 23509.
2. *Jacksonville/Atlantic Beach, FL:* Mayport Elementary School Media Center, 2753 Shangri-La Drive, Atlantic Beach, FL 32233–2999.
3. *Pascagoula, MS:* Le Maison Gautier, 2800 Oak Street, Gautier, MS 39553.

FOR FURTHER INFORMATION CONTACT: Naval Sea Systems Command, Attn: Ms. Lyn Carroll (04RE), 1331 Isaac Hull Ave., SE., Washington Navy Yard, DC 20376; (703) 412–7521.

SUPPLEMENTARY INFORMATION: The proposed action (shock trial) would subject a SAN ANTONIO (LPD 17) Class Amphibious Assault Ship to no more than four explosive charges, approximately 10,000 pounds each, while monitoring the effects on the ship. The EIS/OEIS will thoroughly address reasonable alternatives to the proposed action, the existing environments of the proposed test areas, and the impact to the environment at those areas. An initial evaluation identified beyond the 600-foot depth curve (no closer than 9 nm from shore) and within 120 nm of Jacksonville, FL; Pascagoula, MS; and Norfolk, VA, as potential shock trial locations because they effectively meet the operational criteria necessary to conduct a shock trial on an amphibious ship. The proposed shock trial is planned for the late 2006/early 2007 timeframe.

The EIS/OEIS will evaluate the potential environmental impacts associated with the test locations. Issues

[1] The limit has not been adjusted to account for any imports exported after December 31, 2003.

to be addressed will include, but are not limited to, the following resource areas: Wildlife including threatened and endangered species and marine mammals, fisheries including an analysis of water quality, air quality, commercial fishing, commercial shipping, recreation, and socioeconomics. The evaluation will include an evaluation of the direct, indirect, short-term, and cumulative impacts. No decision will be made to conduct a shock trial until the NEPA process is completed.

The Navy is initiating the scoping process to identify community concerns and local issues that should be addressed in the EIS/OEIS. Federal, state, local agencies, and interested persons are encouraged to provide oral and/or written comments to the Navy to identify specific issues or topics of environmental concern for consideration in the EIS/OEIS. The Navy will consider these comments in determining the scope of the EIS/OEIS.

Written comments on the scope of the EIS/OEIS should be submitted by May 20, 2004, and should be mailed to: LPD 17 Program Manager, C/O Booz Allen Hamilton, 1725 Jefferson Davis Hwy., Suite 1100, Arlington, VA 22202, Attn: LPD 17 EIS.

Dated: March 8, 2004.

S.A. Hughes,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 04–5633 Filed 3–11–04; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Shock Test of a VIRGINIA (SSN 774) Class Submarine

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy (Navy) announces its intent to prepare an Environmental Impact Statement/ Overseas Environmental Impact Statement (EIS/OEIS) to evaluate the potential environmental impacts associated with conducting a shock test on a VIRGINIA (SSN 774) Class submarine, at a site located off the East Coast of the United States. Pursuant to 40 CFR 1501.6, the Navy has requested that the National Marine Fisheries Service (NMFS) act as a Cooperating Agency.

A "shock test" is necessary to evaluate the effect of shock waves, resulting from a series of underwater explosions simulating conditions encountered in combat. The congressionally mandated (10 U.S.C. 2366) Live Fire Test and Evaluation (LFT&E) Program requires realistic survivability testing on each new Class of Navy submarines. A "shock test" is a component of the Navy's LFT&E program to ensure survivability. The test results provide important information that is applied to follow-on submarines, and is used to validate/improve the initial submarine design and enhance the effectiveness and overall survivability of the submarine and crew.

DATES: Public scoping meetings will be held in Norfolk, VA and Jacksonville/ Atlantic Beach, FL, to receive oral and/ or written comments on environmental concerns that should be addressed in the EIS/OEIS. The public meeting dates are:

1. Tuesday, April 20, 2004, from 6 p.m. to 8 p.m., in Norfolk, VA.

2. Wednesday, April 21, 2004, from 6 p.m. to 8 p.m., in Jacksonville/Atlantic Beach, FL.

ADDRESSES: The public meeting locations are:

1. Norfolk, VA: Lafayette Branch Public Library, 1610 Cromwell Drive, Norfolk, VA 23509.

2. Jacksonville/Atlantic Beach, FL: Mayport Elementary School Media Center, 2753 Shangri-La Drive, Atlantic Beach, FL 32233–2999.

FOR FURTHER INFORMATION CONTACT: Naval Sea Systems Command, Attn: 09A12 (Mr. David Cartwright, SEA07TE), 614 Sicard Street SE., Washington Navy Yard, DC 20376–7031; telephone (703) 412–7521.

SUPPLEMENTARY INFORMATION: The proposed action (shock test) would subject a VIRGINIA (SSN 774) Class submarine to no more than five explosive charges, approximately 10,000 pounds each, while monitoring the effects on the submarine. The EIS/OEIS will thoroughly address reasonable alternatives to the proposed action, the existing environments of the proposed test areas, and the impact to the environment at those areas. An initial evaluation identified areas at the 400-foot depth curve and within 100 nm of Kings Bay, GA/Mayport, FL; and Norfolk, VA, as potential shock test locations, because they effectively meet the operational criteria necessary to conduct a shock test on a submarine. The proposed shock test is scheduled to occur between May 1, 2006, and September 30, 2006, with a maximum of one test event per week.

The EIS/OEIS will evaluate the potential environmental impacts associated with the test locations. Issues to be addressed will include, but are not limited to, the following resource areas: wildlife, including threatened and endangered species and marine mammals, fisheries, including an analysis of water quality, air quality, commercial fishing, commercial shipping, recreation, and socioeconomics. The EIS/OEIS will include an evaluation of the direct, indirect, short-term, and cumulative impacts. No decision will be made to conduct a shock test until the NEPA process is completed.

The Navy is initiating the scoping process to identify community concerns and local issues that should be addressed in the EIS/OEIS. Federal, State, local agencies, and interested persons are encouraged to provide oral and/or written comments to the Navy to identify specific issues or topics of environmental concern for consideration in the EIS/OEIS. The Navy will consider these comments in determining the scope of the EIS/OEIS.

Written comments on the scope of the EIS/OEIS should be submitted by May 21, 2004, and should be mailed to: VIRGINIA (SSN 774) Class Program, C/ O Booz Allen Hamilton, 1725 Jefferson Davis HWY, Suite 1100, Arlington, VA 22202, Attn: VIRGINIA (SSN 774) Class EIS.

Dated: March 8, 2004.

S.A. Hughes,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 04–5632 Filed 3–11–04; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Proposed Collection; Comment Request

AGENCY: Department of Education.

SUMMARY: The Secretary of Education requests comments on the Free Application for Federal Student Aid (FAFSA) that the Secretary proposes to use for the 2005–2006 award year. The FAFSA is completed by students and their families and the information submitted on the form is used to determine the students' eligibility and financial need for financial aid under the student financial assistance programs authorized under Title IV of

the Higher Education Act of 1965, as amended, (Title IV, HEA Programs). The Secretary also requests comments on changes under consideration for the 2005–2006 award year FAFSA.

DATES: Interested persons are invited to submit comments on or before May 11, 2004.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Joseph Schubart, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651.

In addition, interested persons can access this document on the Internet:

(1) Go to IFAP at *http://ifap.ed.gov;*

(2) Scroll down to "Publications";

(3) Click on "FAFSAs and Renewal FAFSAs";

(4) Click on "By 2005–2006 Award Year";

(5) Click on "Draft FAFSA Form/Instructions".

Please note that the free Adobe Acrobat Reader software, version 4.0 or greater, is necessary to view this file. This software can be downloaded for free from Adobe's Web site: *http://www.adobe.com.*

FOR FURTHER INFORMATION CONTACT: Joseph Schubart (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 483 of the Higher Education Act of 1965, as amended (HEA), requires the Secretary, "in cooperation with agencies and organizations involved in providing student financial assistance," to "produce, distribute and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student under" the Title IV, HEA Programs. This form is the FAFSA. In addition, section 483 authorizes the Secretary to include non-financial data items that assist States in awarding State student financial assistance.

The draft 2005–2006 FAFSA (posted to the IFAP Web site) incorporates four new data elements in preparation for a potential match with IRS data. These new data elements are on page 3 of the form, questions 18–21. To allow room for these new data elements we are recommending the number of schools an applicant lists on the FAFSA be reduced from six to four. This recommendation is based on comments received during the previous clearance cycle. Other suggestions to fit these additional questions included removing some of the instructions on the form. The Secretary requests comments on ways to further simplify the application for students, parents, and schools, as well as suggestions for incorporating these new data elements.

The Secretary is publishing this request for comment under the provisions of the Paperwork Reduction Act of 1995, 44 U.S. C. 3501 *et seq.* Under that Act, ED must obtain the review and approval of the Office of Management and Budget (OMB) before it may use a form to collect information. However, under procedure for obtaining approval from OMB, ED must first obtain public comment of the proposed form, and to obtain that comment, ED must publish this notice in the **Federal Register**.

In addition to comments requested above, to accommodate the requirements of the Paperwork Reduction Act, the Secretary is interested in receiving comments with regard to the following matters: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 8, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.

Title: Free Application for Federal Student Aid (FAFSA).

Frequency: Annually.

Affected Public: Individuals or household.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 14,762,847.

Burden Hours: 7,624,153.

Abstract: The FAFSA collects identifying and financial information about a student applying for Title IV, HEA program funds. This information is used to calculate the student's expected family contribution, which is used to determine a student's financial need. The information is also used for determining a student's eligibility for State and institutional financial aid programs.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 2465. When you access the information collection, click on "Download attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *Vivian.Reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to (202) 708–9346. Please specify the complete title of the information collection when making your request.

[FR Doc. 04–5586 Filed 3–11–04; 8:45 am]

BILLING CODE 4001–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Demonstration and Training Programs—Braille Training Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.235E

Dates: Applications Available: March 12, 2004.

Deadline for Transmittal of Applications: April 26, 2004.

Deadline for Intergovernmental Review: June 25, 2004.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including institutions of higher education.

Estimated Available Funds: $200,000.

Estimated Range of Awards: $75,000–$100,000.

Estimated Average Size of Awards: $100,000 per 12-month period.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program offers financial assistance to establish projects that will provide training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 303(d)(2) of the Rehabilitation Act of 1973, as amended (Act), 29 U.S.C. 773(d)(2).

Absolute Priority: For FY 2004 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Grants must be used for the establishment or continuation of projects that may provide (1) development of braille training materials; (2) in-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching Braille to youth and adults who are blind; and (3) activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

Program Authority: 29 U.S.C. 773(d).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $200,000.

Estimated Range of Awards: $75,000–$100,000.

Estimated Average Size of Awards: $100,000 per each 12-month period.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* State agencies and other public or nonprofit agencies and organizations, including institutions of higher education.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.235E.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8207.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times:* Applications Available: March 12, 2004. Deadline for Transmittal of Applications: April 26, 2004. The dates and times for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program. The application package also specifies the hours of operation of the e-Application Web site.

We do not consider an application that does not comply with the deadline requirements. Deadline for Intergovernmental Review: June 25, 2004.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* Indirect cost reimbursement for grants under this program is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or 10 percent of the total direct cost base, whichever amount is less (34 CFR 373.22(a)). We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program.

Application Procedures:

Note: Some of the procedures in these instructions for transmitting applications differ from those in EDGAR (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications

We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. Demonstration and Training Programs—Braille Training Program—CFDA Number 84.235E is one of the programs included in the pilot project. If you are an applicant under the Demonstration and Training Programs— Braille Training Program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application). If you use e-Application, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter online will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Your e-Application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an

automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.

2. The institution's Authorizing Representative must sign this form.

3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.

4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

• We may request that you give us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you elect to participate in the e-Application pilot for Demonstration and Training Programs—Braille Training Program and you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application, and you have initiated an e-Application for this competition; and

2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC, time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC, time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the persons listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contacts) or (2) the e-GRANTS help desk at 1–888–336–8930.

You may access the electronic grant application for Demonstration and Training Programs—Braille Training Program at: *http://e-grants.ed.gov.*

V. Application Review Information

Selection Criteria: The selection criteria for this program are in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 74.51 and in 34 CFR 75.118.

4. *Performance Measures:* All grantees will submit an annual performance report documenting their evaluation findings, as required by section 303(d)(2)(C) of the Act. This report must describe whether they were successful in increasing the knowledge and use of braille for program participants. For example, reports could include the number of participants who successfully completed a college-level or advanced-level Braille course, achieved demonstrated competence in reading and writing Braille (*i.e.*, certificate of completion of a program of self-study or training module that will lead to successful completion of the National Literary Braille Competency Test offered by the Library of Congress, National Library Service for the Blind and Physically Handicapped), successfully completed in-service training activities leading to achievement of agency or State qualifications or standards of competency in Braille reading, writing, and technology for rehabilitation or education professionals, or demonstrated increased knowledge of Braille through pre- and post-measures or other appropriate measures.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Theresa DeVaughn or Alfreda Reeves, U.S. Department of Education, 400 Maryland Avenue, SW., room 3316, Switzer Building, Washington, DC 20202–2650. Telephone: for Theresa DeVaughn (202) 205–5392; for Alfreda Reeves (202) 205–9361.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at *www.gpoaccess.gov/nara/index.html.*

Dated: March 8, 2004.

Troy R. Justesen,

Acting Deputy Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 04–5669 Filed 3–11–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995), is seeking comment on a proposed three-year extension with the Office of Management and Budget (OMB) of an

information collection package concerning litigation and other legal expenses incurred by its site and facility management contractors. Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before May 11, 2004. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to Anne Broker, GC–12, U.S. Department of Energy, Office of Dispute Resolution, 1000 Independence Avenue, SW., Washington, DC 20585 or by fax at 202–586–0325 or by e-mail at *anne.broker@hq.doe.gov* and to Susan L. Frey, Director, Records Management Division, IM–11/Germantown Bldg., Office of the Chief Information Officer, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–1290, or by fax at 301–903–9061 or by e-mail at *susan.frey@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Anne Broker at 202–586–5060 (*anne.broker@hq.doe.gov*).

SUPPLEMENTARY INFORMATION: This package contains: (1) OMB No. 1910–5115; (2) Package Title: Contractor Legal Management Requirements; (3) Type of Review: Renewal; (4) Purpose: The collection of this information continues to be necessary to provide a basis for DOE decisions on requests, from applicable contractors, for reimbursement of litigation and other legal expenses.; (5) Respondents: 36; (6) Estimated Number of Burden Hours: The burden hours for this collection are estimated to be approximately 465 to 570 hours on an annual basis. This estimate is based on the estimate that preparation of the initial plan is 15–30 hours and that no more than 20% of the 36 contractors will need to submit a legal management plan in any given year. The estimate for the total also includes an estimate of the approximately 10 hours for an annual budgetary update, which would be submitted by all contractors.

Statutory Authority: These requirements are promulgated under authority in section 161 of the Atomic Energy Act of 1954, 42 U.S.C. 2201; the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; and the National Nuclear Security Administration Act, 50 U.S.C. 2401, *et seq.*

Issued in Washington, DC on March 4, 2004.

Susan L. Frey,

Director, Records Management Division, Office of the Chief Information Officer.

[FR Doc. 04–5640 Filed 3–11–04; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04–71–000, et al.]

National Energy Gas Transmission, Inc., et al.; Electric Rate and Corporate Filings

March 5, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. National Energy & Gas Transmission, Inc. and its Public Utility Subsidiaries

[Docket No. EC04–71–000]

Take notice that on March 4, 2004, National Energy & Gas Transmission, Inc., (NEGT) along with its jurisdictional public utility subsidiaries, tendered for filing with the Commission an application pursuant to section 203 of the Federal Power Act for authorization to implement a proposed plan of reorganization filed with the United States Bankruptcy Court for the District of Maryland (Greenbelt Division) all as more fully described in the Application. NEGT states that the Applicants have requested a shortened comment period and expeditious Commission approval.

Comment Date: March 25, 2004.

2. Access Energy Cooperative

[Docket No. ES04–15–000]

Take notice that on March 2, 2003, Access Energy Cooperative (AEC) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to: (1) Make a long-term borrowing in an amount equal to $450,000 under the U.S. Department of Agriculture's Rural Business and Cooperative Development Service's Rural Economic Development Loan and Grant Program (RED Loan) for the benefit of the Riverside Paper Corporation; and (2) enter into a letter of credit issued by the National Rural Utilities Cooperative Finance Corporation in the amount of $562,500 to secure the RED Loan.

AEC also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: March 19, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–547 Filed 3–11–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID Number SFUND–2004–0003; FRL–7635–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; CAMEO Software Usability Evaluation Survey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following new Information Collection Request (ICR) to the Office of Management and Budget (OMB): National Survey of CAMEO Software Usability Evaluation Survey, EPA ICR Number 2132.01, OMB Control No. 2050.XXXX. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection.

DATES: Comments must be submitted on or before May 11, 2004.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Sherry Fielding, Office of Emergency Prevention, Preparedness and Response (OEPPR), Mail code 5104A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20460; telephone number: (202) 564–6174; fax number: (202) 564–8211; e-mail address: *fielding.sherry@epa.gov*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number SFUND–2004–0003, which is available for public viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Superfund Docket is (202) 566–0276. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice, and according to the following detailed instructions: Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *superfund.Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Superfund Docket, Mail Code 5305T, 1200 Pennsylvania Ave., NW., Washington DC 20460.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidnetial Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *www.epa.gov/edocket.*

Affected entities: Entities potentially affected by this action are State and local agencies and members of the public.

Title: CAMEO Software Usability Evaluation Survey, EPA ICR No. 2132.01, OMB Control No. 2050.XXXX.

Abstract: The Environmental Protection Agency (EPA), Office of Emergency Prevention, Preparedness and Response (OEPPR), is requesting an Information Collection Request (ICR) to conduct a nationwide survey of Computer-aided Management of Emergency Operations (CAMEO) Web site listserv members and users to determine user satisfaction with the CAMEO software and its features. CAMEO is a system of software applications used widely to plan for and respond to chemical emergencies. It is one of the tools developed by EPA to assist front-line chemical emergency planners and responders. Users can employ CAMEO to access, store, and evaluate information critical for developing emergency plans. In addition, CAMEO supports regulatory compliance by helping users meet the chemical inventory reporting requirement of SARA Title III. CAMEO has been in use by local emergency planners, first responders, state and tribal groups, and industry personnel since 1988. During the intervening years, EPA surveyed CAMEO users in 1994 and 1997 to identify needed changes and enhancements. While these previous surveys were the starting point of the current CAMEO survey, survey materials have been modified to capture emerging needs of users, particularly as they relate to the availability of Emergency Planning and Community Right-to-Know (EPCRA) and Risk Management Program Rule data.

The survey will be conducted via the Internet after 600 names are randomly selected from the CAMEO Listserv. EPA will send prior notification to the entire Listserv (6,000–7,000 names) informing users of the survey and the process. EPA will send a message to the 600 selected participants with a link to the Web-based survey; there will be no passwords to access the survey. In completing the survey, EPA will not require participants to provide any identifying information.

The primary goals of this research are to: (i) Evaluate customer satisfaction with CAMEO; (ii) probe current user practices and preferences regarding several important sets of issues, including the effectiveness of selected Agency products and services, required reporting requirements, and new homeland security responsibilities; and (iii) identify emerging user needs. EPA will use the information collected through this survey to judge the success and efficacy of the Agency's chemical emergency technical assistance efforts and improve program implementation.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The EPA would like to solicit comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those

who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The proposed survey will take advantage of an existing, CAMEO on-line listserv of respondents. Thus, the only burden imposed by the survey on respondents will be the time required to complete the survey. Based upon pretest interviews, EPA estimates that this will involve an average of one-half hour (0.5 hours) per respondent. With 600 respondents completing the survey, EPA estimates the total burden to be 300 hours. Based on an average hourly rate of $70.60 (including employer costs of all employee benefits), the one-time total cost to all respondents will be $21,180. Because this information collection is voluntary and does not involve any special equipment, respondents will not incur any capital or operation and maintenance (O&M) costs.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: CAMEO Users.

Estimated Number of Respondents: 600.

Frequency of Response: One-time.

Estimated Total Annual Hour Burden: 300.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Dated: February 26, 2004.

Deborah Y. Dietrich,

Director, Office of Emergency Prevention, Preparedness and Response.

[FR Doc. 04–5646 Filed 3–11–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6649–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 04, 2003 (68 FR 16511).

Draft EISs

ERP No. D–AFS–J65016–UT Rating EC2, Bear Hodges II Timber Sale Management Plan. Selective Timber Harvest of Spruce Stands With or Without Road Construction, Implementation, Wasatch National Forest (WCNF), Logan Ranger District, Cache and Rich Counties, UT.

Summary: EPA expressed environmental concerns with adverse impacts to soil and vegetation, the potential for impacts to aquatic resources, and need for more specific information on mitigation of these impacts.

ERP No. D–AFS–J65399–00 Rating EC2, High Mountains Heli-Skiing (HMH) Project, Issuance of a New 5-Year Special Use Permit (SUP) to Continue Operating Guided Helicopter Skiing in Portions of the Bridger-Teton National Forest and Caribou-Targhee National Forest (CTNF), Teton and Lincoln Counties, WY and Teton and Bonneville Counties, ID.

Summary: EPA expressed environmental concerns regarding impacts to wildlife and reduced likelihood that proposed wilderness areas would be designated as Wilderness. EPA requested additional information on refueling sites, avalanche control activities and winter range impacts.

ERP No. D–AFS–J65400–UT Rating EC2, East Fork Fire Salvage Project Timber Harvesting of Dead and Dying Trees, Implementation. Wasatch-Cache National Forest, Evanston Ranger District, Summit County, UT.

Summary: EPA expressed environmental concerns with soil erosion, soil disturbance and soil compaction; runoff and potential degradation of water quality and aquatic habitats; sedimentation of streams and water-storage reservoirs; fish and wildlife impacts to sensitive species; and the potential to establish and spread noxious weeds. EPA recommended the selected alternative restrict harvest to the lands accessible with existing roads to minimize impact to water quality.

ERP No. D–BLM–J65393–CO Rating LO, Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Resource Management Plan, Implementation, Mesa County, CO.

Summary: EPA expressed lack of objections however, EPA suggest additional analysis of compliance with land health standards, increased use of the adaptive management to address recreational use and additional monitoring for water quality, erosion and levels of vegetative cover.

ERP No. D–BLM–L65440–OR Rating EC2, Upper Deschutes Resource Management Plan, Implementation, Deschutes, Klamath, Jefferson and Cook Counties, OR.

Summary: EPA expressed environmental concerns about ongoing water quality problems on streams in the planning area. EPA recommended that the final EIS include goals for the restoration of water quality through planned revision of grazing management, or other appropriate means.

ERP No. D–DOE–L02032–OR Rating EC2, COB Energy Facility, Construction of a 1,160-megawatt (MW) Natural Gas-Fired and Combined-Cycle Electric Generating Plant, Right-of-Way Grant across Federal Land under the Jurisdiction of BLM, Klamath Basin, Klamath County, OR.

Summary: EPA raised environmental concerns related to the lack of detailed evaluation of alternatives to the proposed site for the energy generation facility and the route of the proposed transmission line. EPA recommended that additional evaluation and discussion of alternatives to the proposed project be included in the final EIS.

ERP No. D–FHW–C40161–NY Rating EC2, NY–17 Parksville/SH–5223, Liberty-County Line, Part 1 Construction and Reconstruction to Interstate Standards, Funding and U.S. Army COE Section 404 Permit Issuance, Town of Liberty, Sullivan County, NY.

Summary: EPA expressed environmental concerns regarding indirect impacts to wetlands. EPA requested additional information on these impacts and on the proposed wetlands and water quality mitigation plan.

ERP No. D–FHW–J40161–UT Rating LO, I–15, 31st Street in Ogden to 2700

North in Farr West, Reconstruction, Widening and Interchange Improvements, Funding and U.S. Army COE Section 404 Permit, Weber County, UT.

Summary: While EPA has no objections to the proposed project, EPA did request clarification regarding the impacts to perrenial streams in the Weber River watershed as well as on the impacts to air quality.

ERP No. D–IBW–G39039–00 Rating LO, Rio Grande Canalization Project (RGCP), Long-Term River Management Alternatives Practices, Implementation, from below Percha Dam in Sierra County, NM to American Dam in El Paso, TX.

Summary: EPA had no objections to the proposed action.

ERP No. D–NOA–E90018–GA Rating LO, Gray's Reef National Marine Sanctuary Draft Management Plan (DMP), Address Current Resource Conditions and Compatible Multiple Uses, Located 17.5 Nautical miles off Sapelo Island, GA.

Summary: EPA supports the National Ocean Service Preferred Alternatives on anchoring prohibitions and fishing gear restrictions to rod, reel and handline to protect the resources in the Gray's Reef National Marine Sanctuary.

ERP No. D–NPS–C65004–NY Rating LO, Saratoga National Historical Park General Management Plan, Implementation, Hudson River Valley, Towns of Stillwater and Saratoga, Saratoga County, NY.

Summary: EPA has no objections to the proposed management plan.

ERP No. D–NRC–F06023–IL Rating EC2, Dresden Nuclear Power Station, Unit 2 and 3, Supplement 17, NUREG 1437, Renewal of a Nuclear Power Plan Operating License, Grundy County, IL.

Summary: EPA has environmental concerns regarding the information provided on the radiological impacts, cooling water system impacts on aquatic organisms, thermal impacts, risk estimates and on-site storage.

Final EISs

ERP No. F–COE–C39016–NJ Union Beach Community Project, Provision of Hurricane and Storm Damage Reduction to Residential, Commercial and Recreational Resources, Located along the Raritan Bay and Sandy Hook Bay Shoreline, Monmouth County, NJ.

Summary: EPA raised environmental concerns over the adequacy of the proposed wetlands mitigation plan and requested that appropriate information on mitigation be provided to EPA prior to the issuance of the Record of Decision (ROD). In addition, a Clean Air Act General Conformity Determination needs to be prepared prior to the issuance of the ROD.

Dated: March 9, 2004.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 04–5648 Filed 3–11–04; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6649–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa.*

Weekly receipt of Environmental Impact Statements

Filed March 1, 2004 Through March 5, 2004

Pursuant to 40 CFR 1506.9.

EIS No. 040101, Draft EIS, SFW, CO, Rocky Flats National Wildlife Refuge Comprehensive Conservation Plan, 15-Year Guidance for Management of Refuge Operations, Habitat Restoration and Visitor Services, Implementation, Jefferson and Boulder Counties, CO, Comment Period Ends: April 26, 2004, Contact: Laurie Shannon (303) 289–0151. This document is available on the Internet at: *http://rockyflats.fws.gov*

EIS No. 040102, Draft EIS, SFW, AK, Alaska Peninsula and Becharof National Wildlife Refuges, Draft Revised Comprehensive Conservation Plan, Implementation, AK, Comment Period Ends: May 31, 2004, Contact: Peter Wikoff (907) 786–3837. This document is available on the Internet at: *http://www.r7.fws.gov/planning*

EIS No. 040104, Final EIS, AFS, MT, Logan Creek Ecosystem Restoration Project, Hazardous Fuel Reduction across the Landscape and Vegetation Management Restoration or Maintenance, Flathead National Forest, Tally Lake Ranger District, Flathead County, MT, Wait Period Ends: April 12, 2004, Contact: Bryan Donner (406) 863–5408.

EIS No. 040105, Draft EIS, AFS, MT, Fortine Project, To Implement Vegetation Management, Timber Harvest and Fuel Reduction Activities, Kootenai National Forest, Fortine Ranger District, Lincoln County, MT, Comment Period Ends: April 26, 2004, Contact: Joleen Dunham (406) 882–4451.

EIS No. 040106, Draft EIS, AFS, MT, Lower Big Creek Project, To Implement Timber Harvest and Prescribed Burning, Kootenai National Forest Plan, Rexford Ranger District, Lincoln County, MT, Comment Period Ends: April 26, 2004, Contact: Chris Fox (406) 296–2536.

EIS No. 040107, Final EIS, AFS, FL, USDA Forest Service and State of Florida Land Exchange Project, Assembled Exchange of both Fee, Ownership Parcels and Partial Interest Parcels, Baker, Citrus, Franklin, Hernando, Lake, Liberty, Okaloosa, Osceola, Santa Rosa and Sumter Counties, FL, Wait Period Ends: April 12, 2004, Contact: Gary Hegg (850) 926–3561.

EIS No. 040108, Draft EIS, AFS, WY, Upper Green River Area Rangeland Project, Propose Site Specific Grazing Management Practices, Bridger-Teton Forest, Sublette, Teton and Fremont Counties, WY, Comment Period Ends: April 26, 2004, Contact: Craig Trulock (307) 367–4326.

Amended Notices

EIS No. 040022, Draft EIS, AFS, AK, Commercially Guided Helicopter Skiing on the Kena, Peninula, Issuance of a Five Year Special Use Permit, Chugach National Forest, Kenai Peninsula, AK, Comment Period Ends: May 10, 2004, Contact: Teresa Paquet (907) 754–2314. Revision of FR Notice Published on 1/23/2004: CEQ Comment Period Ending 3/23/2004 has been Extended to 5/10/2004.

Dated: March 9, 2004.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 04–5647 Filed 3–11–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 3, 2004.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it

displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 11, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Lesli.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Les Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1049.

Title: Digital Broadcast Content Protection, MB Docket No. 02–230.

Type of Review: Extension of currently approved collection.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,520.

Estimated Hours Per Response: 2 to 40 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 3,800 hours.

Total Annual Cost: None.

Needs and Uses: On November 4, 2003, the FCC released the Report and Order and Further Notice of Proposed Rulemaking ("Order"), *In the Matter of Digital Broadcast Content Protection,* MB Docket No. 02–230, FCC 03–273, The Order established a redistribution control content protection system for digital broadcast television in order to prevent the widespread indiscriminate redistribution of high value digital broadcast content and to assure the continued availability of such content to broadcast outlets. The Order adopted the use of an ATSC flag, which can be embedded in DTV content to signal to consumer electronics devices to protect such content from indiscriminate redistribution. In order for this protection system to work, demodulators integrated within, or produced for use in, DTV reception devices, including PC and IT products, ("Covered Demodular Products") must recognize and give effect to the ATSC flag pursuant to certain compliance and robustness rules. In particular, content that is marked within the ATSC flag must be handled in a protected fashion through the use of digital content protection and recording technologies. In order to ensure that digital content is being adequately protected, such technologies must be reviewed and approved for use. The Order established interim procedures by which proponents of digital content protection and recording technologies can certify to the Commission that such technologies and appropriate for use in Covered Demodulator Products, subject to public notice and comment.

To facilitate enforcement and compliance, the Order adopted a written commitment regime whereby manufacturers or importers of ATSC demodulators obtain from buyers of such products a written commitment that they will incorporate such demodulators into compliant and robust devices or sell or distribute them to third parties that have also made such written commitment. The Order also adopted a written commitment regime to ensure that manufacturers or importers of Peripheral TSP Products (products where the demodulator and transport stream processor are physically separate) will abide by the Demodulator Products compliance and robustness rules. The interim approval process for digital content protection and recording technologies and the written commitment regime are essential components of the Commission's redistribution control content protection system for digital broadcast television. These information collections ensure objectivity and transparency as a part of this process.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–5545 Filed 3–11–04; 8:45 am]

BILLING CODE 6712–10–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–04–52–D; DA 04–278]

Auction of Direct Broadcast Satellite Service Licenses Rescheduled for July 14, 2004; Notice and Filing; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures, minimum opening bids, and revised inventory for the upcoming auction of licenses to use the Direct Broadcast Satellite ("DBS") service allocation in the 12.2–12.7 GHz band. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

DATES: Auction No. 52 is rescheduled for July 14, 2004.

FOR FURTHER INFORMATION CONTACT: *Auctions and Spectrum Access Division, WTB:* For legal questions: Brian Carter at (202) 418–0660, for general auction questions: Jeff Crooks at (202) 418–0660 or Lisa Stover at (717) 338–2888. *Media Contact:* Lauren Patrich at (202) 418–7944. *Satellite Division, IB:* For service rule questions: Rockie Patterson at (202) 418–1183 or Selina Khan at (202) 418–7282.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 52 Procedures Public Notice* released on February 6, 2004. The complete text of the *Auction No. 52 Procedures Public Notice,* including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction No. 52 Procedures Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.* This document is also available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/52/.*

I. General Information

A. Introduction

1. The *Auction No. 52 Procedures Public Notice* announces that Auction No. 52, an auction of licenses to use the Direct Broadcast Satellite ("DBS") service allocation in the 12.2–12.7 GHz

band, has been rescheduled for July 14, 2004. In addition, in the *Auction No. 52 Procedures Public Notice* the Wireless Telecommunications Bureau ("Bureau") announces the procedures and minimum opening bids for Auction No. 52 and sets forth a revised list of the DBS licenses available in the auction. On March 3, 2003, in accordance with the Balanced Budget Act of 1997, the Commission released a public notice seeking comment on reserve prices or minimum opening bids and the procedures to be used for Auction No. 52. Four comments and two reply comments were submitted in response to the *Auction No. 52 Comment Public Notice*, 68 FR 12906, March 18, 2003.

i. Background of Proceeding

2. The Commission first established DBS service rules in 1982 by adopting "interim" rules that were codified in Part 100 of its regulations. The first applications for authority to construct, launch, and operate DBS satellite systems were also accepted in 1982. In 1995, the Commission adopted new service rules for DBS. At the same time, the Commission adopted competitive bidding rules for the DBS service. The first DBS auctions were held in January 1996.

3. On April 11, 2002, the Bureau, acting under delegated authority, streamlined the DBS competitive bidding rules by conforming them with the general competitive bidding rules set forth in Part 1 of the Commission's rules. On June 13, 2002, the Commission released the *Part 100 R&O*, 67 FR 51110, August 7, 2002, in which it further streamlined the regulation of DBS and moved the DBS rules from part 100 to part 25.

4. On January 15, 2004, the Commission released an Order affirming its conclusion in the *Auction No. 52 Comment Public Notice* that the FCC's authority to auction the DBS licenses has not been altered by regulatory and statutory actions taken since DBS auctions were last held, and declining to impose eligibility restrictions on the three available licenses to operate at the western orbit locations of 175° W.L., 166° W.L., and 157° W.L. The Commission did not address in this Order the question of whether any eligibility restrictions are appropriate for the license to use the two available channels at the eastern orbit location of 61.5° W.L. but instead deferred the resolution of this matter to a subsequent Order.

ii. Licenses To Be Auctioned

5. Auction No. 52 will include three licenses for unassigned channels at orbit locations of 175° W.L., 166° W.L., and 157° W.L. The license to use the two available channels at the eastern orbit location of 61.5° W.L., which was included in the list of licenses available for auction in the *Auction No. 52 Comment Public Notice*, will not be offered in Auction No. 52 because there remains pending the issue of whether any eligibility restrictions are appropriate for this license. In addition, in May 2003 the International Bureau authorized EchoStar to use three channels at the 157° W.L. orbit location. The license available for auction at that orbit location will therefore authorize the use of 29 channels, rather than 32 as previously announced in the *Auction No. 52 Comment Public Notice*.

6. The licenses included in Auction No. 52 will be subject to the Commission's DBS service rules, including the geographic service rules at 47 CFR 25.148(c). A complete list and description of the licenses available in Auction No. 52 is included as Attachment A of the *Auction No. 52 Procedures Public Notice*.

B. Rules and Disclaimers

i. Relevant Authority

7. Prospective applicants must familiarize themselves thoroughly with the Commission's rules relating to the DBS service contained in title 47, part 25 of the Code of Federal Regulations, and those relating to application and auction procedures, contained in title 47, part 1 of the Code of Federal Regulations. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, "terms") contained in the *Auction No. 52 Procedures Public Notice*; the *Auction No. 52 Comment Public Notice*; and the *Part 1 Fifth Report and Order*, 65 FR 52323, August 29, 2000, (as well as prior and subsequent Commission proceedings regarding competitive bidding procedures).

8. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction.

ii. Prohibition of Collusion

9. To ensure the competitiveness of the auction process, § 1.2105(c) of the Commission's rules prohibits applicants for any of the same geographic license areas from communicating with each other during the auction about bids, bidding strategies, or settlements unless such applicants have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under § 1.2105(a)(2)(viii). Because all three licenses available in Auction No. 52 have overlapping service areas, this prohibition will apply to all applicants. Thus, all applicants (unless they have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under § 1.2105(a)(2)(viii)) must affirmatively avoid all discussions with or disclosures to each other that affect, or in their reasonable assessment have the potential to affect, bidding or bidding strategies. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. For purposes of this prohibition, § 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting a short-form application to participate in the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of the entity.

10. Because all three licenses available in Auction No. 52 have overlapping service areas, all applicants are encouraged to avoid using the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more applicants and conveys information concerning the substance of bids or bidding strategies between the applicants he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (*e.g.*, law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.

11. The Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering any of the same geographic areas. In Auction No. 52, applicants will not be able to take advantage of these rule provisions because all three available licenses have overlapping service areas. However, all applicants may enter into bidding agreements before filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their Form 175. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with any other applicants. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c).

12. In addition, § 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires auction applicants that engage in communications of bids or bidding strategies that result in a bidding agreement, arrangement or understanding not already identified on their short-form applications to promptly disclose any such agreement, arrangement or understanding to the Commission by amending their pending applications. In addition, § 1.2105(c)(6) requires all auction applicants to report prohibited discussions or disclosures regarding bids or bidding strategy to the Commission in writing immediately but in no case later than five business days after the communication occurs, even if the communication does not result in an agreement or understanding regarding bids or bidding strategy that must be reported under § 1.65.

13. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment F of the *Auction No. 52 Procedures Public Notice.*

iii. Other Services Authorized in the 12.2–12.7 GHz Band

14. In 2000, the Commission allocated the 12.2–12.7 GHz band for non-geostationary satellite orbit ("NGSO") fixed-satellite service ("FSS") downlinks on a primary basis. At the same time, the Commission authorized the Multichannel Video Distribution and Data Service ("MVDDS") as a new service under the existing primary status fixed service allocation in the 12.2–12.7 GHz band. The Commission concluded that MVDDS could operate in the 12 GHz band on a co-primary non-harmful interference basis with incumbent DBS providers. In the *MVDDS Second R&O*, 67 FR 43031, June 26, 2002, the Commission established service rules for MVDDS, including technical criteria that will protect DBS providers from interference. An auction of MVDDS licenses concluded on January 27, 2004.

iv. Coordination With Other Countries

15. All DBS licensees must comply with the provisions of the International Telecommunication Union ("ITU") Region 2 Band Plan for Ku-band DBS satellites. They must also comply with §§ 25.114(c)(23) and 25.111(c) of the Commission's rules. These rules require DBS licensees to provide technical information and analyses to the Commission where it may be necessary to request a modification of the ITU Region 2 Band Plan.

v. Due Diligence

16. Potential applicants are reminded that there are matters pending with the Commission that could affect the licenses scheduled to be offered in Auction No. 52. These matters may involve applications (including those for modification), petitions for rulemaking, requests for special temporary authority ("STA"), waiver requests, petitions to deny, petitions for reconsideration, and applications for review that may be pending before the Commission and relate to particular applicants or incumbent licensees. In addition, certain judicial proceedings that may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 52, may be commenced, or may be pending, or may be subject to further review. We note that resolution of these matters could have an impact on the availability of spectrum in Auction No. 52. In addition, although the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction. To aid potential bidders, on February 24, 2004, the Bureau issued a Due Diligence Announcement listing matters pending before the Commission that relate to licenses or applications in these services. However, the Commission makes no representations or guarantees that the matters listed in the Due Diligence Announcement are the only pending matters that could affect spectrum availability in these services.

17. Potential applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 52.

vi. Bidder Alerts

18. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.

19. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 52 to deceive and defraud unsuspecting investors.

20. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 52 may also call the FCC Consumer Center at (888) CALL–FCC ((888) 225–5322).

vii. National Environmental Policy Act Requirements

21. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act ("NEPA").

C. Auction Specifics

i. Auction Date

22. The auction will begin on July 14, 2004. The initial schedule for bidding

will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

ii. Auction Title

23. Auction No. 52—Direct Broadcast Satellite Service.

iii. Bidding Methodology

24. The bidding methodology for Auction No. 52 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet. Telephonic bidding will also be available, and the FCC Wide Area Network will be available as well. Qualified bidders are permitted to bid telephonically or electronically.

iv. Pre-Auction Dates and Deadlines

25. The following is a list of important dates related to Auction No. 52:

Auction Seminar	May 13, 2004.
Short-Form (FCC Form 175) Filing Window Opens	May 13, 2004; 12 p.m. ET.
Short-Form (FCC Form 175) Application Deadline	May 21, 2004; 6 p.m. ET.
Upfront Payments (via wire transfer)	June 18, 2004; 6 p.m. ET.
Mock Auction	July 9, 2004.
Auction Begins	July 14, 2004.

v. Requirements for Participation

26. Any entity wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6 p.m. ET, May 21, 2004.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, June 18, 2004.
- Comply with all provisions outlined in the *Auction No. 52 Procedures Public Notice.*

vi. General Contact Information

27. The following is a list of general contact information related to Auction No. 52:

GENERAL AUCTION INFORMATION
General Auction Questions
Seminar Registration
FCC Auctions Hotline, (888) 225–5322, Press Option #2, or direct (717) 338–2888, Hours of service: 8 a.m.–5:30 p.m. ET, Monday through Friday
AUCTION LEGAL INFORMATION
Auctions and Spectrum Access Division, Auction Rules, Policies, Regulations (202) 418–0660
LICENSING INFORMATION
Rules, Policies, Regulations
Licensing Issues
Due Diligence
Incumbency Issues
International Bureau, Satellite Division, Rockie Patterson (202) 418–1183, Selina Khan (202) 418–7282
TECHNICAL SUPPORT
Electronic Filing
FCC Automated Auction System
FCC Auctions Technical Support Hotline, (202) 414–1250, (202) 414–1255 (TTY), Hours of service: 8 a.m.–6 p.m. ET, Monday through Friday
PAYMENT INFORMATION
Wire Transfers
Refunds
FCC Auctions Accounting Branch, (202) 418–0578 or (202) 418–0496, (202) 418–2843 (Fax)
TELEPHONIC BIDDING
Will be furnished only to qualified bidders
PRESS INFORMATION
Lauren Patrich (202) 418–7944
FCC FORMS
(800) 418–3676 (outside Washington, DC), (202) 418–3676 (in the Washington Area), *http://www.fcc.gov/formpage.html*
FCC INTERNET SITES
http://www.fcc.gov,http://wireless.fcc.gov/auctions,http://wireless.fcc.gov/uls

II. Short-Form (FCC Form 175) Application Requirements

28. Guidelines for completion of the short-form (FCC Form 175) are set forth in Attachment D of the *Auction No. 52 Procedures Public Notice.*

A. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

29. All applicants must comply with the uniform part 1 ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to provide information required by §§ 1.2105 and 1.2112 of the Commission's rules.

B. Consortia and Joint Bidding Arrangements (FCC Form 175 Exhibit B)

30. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid.

31. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction-related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

C. Provisions Regarding Defaulters and Former Defaulters (FCC Form 175 Exhibit C)

32. Each applicant must certify on its FCC Form 175 application under penalty of perjury that the applicant, its controlling interests, its affiliates, and the affiliates of its controlling interests, as defined by § 1.2110, are not in default on any Commission licenses (including down payments) and not delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must attach to its FCC Form 175 application a statement made under penalty of perjury indicating whether or not the applicant, its affiliates, its controlling interests, or the affiliates of its

controlling interests, as defined by § 1.2110, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. Applicants must include this statement as Exhibit C of the FCC Form 175.

33. "Former defaulters"—*i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 52, provided that they are otherwise qualified. However, as discussed *infra* in section III.D.iii, former defaulters are required to pay upfront payments that are 50 percent more than the normal upfront payment amounts.

D. Installment Payments and Bidding Credits

34. Neither installment payment plans nor bidding credits will be available in Auction No. 52.

E. Other Information (FCC Form 175 Exhibits D and E)

35. Applicants owned by minorities or women, as defined in 47 CFR 1.2110(c)(2), may attach an exhibit (Exhibit D) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of "designated entities" in its auctions. Applicants wishing to submit additional information may do so on Exhibit E.

F. Minor Modifications to Short-Form Applications (FCC Form 175)

36. After the short-form filing deadline (6 p.m. ET May 21, 2004), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections or proposed orbit location, change the certifying official, or change control of the applicant). *See* 47 CFR 1.2105. Applicants must make these modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: *auction52@fcc.gov*. The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 52. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

37. A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338–2850.

G. Maintaining Current Information in Short-Form Applications (FCC Form 175)

38. Section 1.65 of the Commission's rules requires applicants to maintain the completeness and accuracy of the information in their pending applications and to notify the Commission within 30 days of any substantial change that may be of decisional significance. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. Pre-Auction Procedures

A. Auction Seminar

39. On Thursday, May 13, 2004, the FCC will sponsor a free seminar for Auction No. 52 at the Federal Communications Commission, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, the FCC Automated Auction System, and DBS service and auction rules.

B. Short-Form Application (FCC Form 175)—Due May 21, 2004

40. In order to participate in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6 p.m. ET on May 21, 2004. Late applications will not be accepted.

i. Electronic Filing

41. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at noon ET on May 13, 2004, until 6 p.m. ET on May 21, 2004. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on May 21, 2004.

42. Applicants must press the "SUBMIT Application" button on the "Submission" page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C of the *Auction No. 52 Procedures Public Notice*. Technical support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8 AM to 6 PM ET. In order to provide better service to the public, *all calls to the hotline are recorded.*

ii. Completion of the FCC Form 175

43. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of the *Auction No. 52 Procedures Public Notice.*

iii. Electronic Review of FCC Form 175

44. The FCC Form 175 electronic review system may be used to locate and print applicants' FCC Form 175 information. There is no fee for accessing this system. *See* Attachment C of the *Auction No. 52 Procedures Public Notice* for details on accessing the review system.

45. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. NOTE: Applicants should not include sensitive information (*i.e.*, TIN/EIN) on any exhibits to their FCC Form 175 applications.

C. Application Processing and Minor Corrections

46. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (i) Those applications accepted for filing; (ii) those applications rejected; and (iii) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

D. Upfront Payments—Due June 18, 2004

47. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159, Revised 2/03). All upfront payments must be received at Mellon Bank in Pittsburgh, PA by 6 p.m. ET on June 18, 2004. Failure to deliver the upfront payment by the June 18, 2004 deadline will result in dismissal of the application and disqualification from participation in the auction. For specific

details regarding upfront payments, *see* section III D. of the *Auction No. 52 Procedures Public Notice.*

i. Making Auctions Payments by Wire Transfer

48. Wire transfer payments must be received by 6 p.m. ET on June 18, 2004. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline.

49. Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 209–6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer—Auction Payment for Auction Event No. 52." In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline. Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.

ii. Amount of Upfront Payment

50. In the *Part 1 Order*, 62 FR 13540, March 21, 1997, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order*, 65 FR 52323, August 29, 2000, the Commission ordered that "former defaulters," *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments 50 percent greater than non-"former defaulters." For purposes of this calculation, the "applicant" includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules.

51. The amount of the upfront payment will determine the number of bidding units on which a bidder may place bids. In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

52. For Auction No. 52 the Commission adopts upfront payments of $50,000 per channel for the licenses at the 175° W.L. and 166° W.L. orbit locations, and $100,000 per channel for the license at the 157° W.L. orbit location. Given 32 channels at 175° W.L. and 166° W.L., and 29 channels at 157° W.L., the Commission adopts upfront payments of $1,600,000 for the 175° W.L. and 166° W.L. licenses, and $2,900,000 for the 157° W.L. license.

53. The specific upfront payments for each license are set forth in Attachment A of the *Auction No. 52 Procedures Public Notice.* Attachment A of the *Auction No. 52 Procedures Public Notice* also includes the number of bidding units for each license.

54. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units on which it may wish to be active (bidding units associated with licenses on which the bidder has the standing high bid from the previous round and licenses on which the bidder places a bid in the current round) in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. Applicants should check their calculations carefully, as there is no provision for increasing maximum eligibility after the upfront payment deadline.

55. Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

Note: An applicant may, on its FCC Form 175, apply for every applicable license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

iii. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

56. The Commission will use wire transfers for all Auction No. 52 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that the following pertinent information be supplied to the FCC: Name of Bank; ABA Number; Contact and Phone Number; Account Number to Credit; Name of Account Holder; FCC Registration Number (FRN); Taxpayer Identification Number; Correspondent Bank (if applicable); Account Number. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise.

E. Auction Registration

57. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

58. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, one containing the confidential bidder identification number (BIN) and the other containing the SecurID cards, both of which are required to place bids. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

59. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Wednesday, July 7, 2004, should contact the Auctions Hotline at (717) 338–2888. Receipt of both registration mailings is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

60. Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing in person at the FCC headquarters, located at 445 12th St., SW., Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

F. Remote Electronic Filing

61. The Commission will conduct this auction over the Internet, and telephonic bidding will also be available. As a contingency plan, bidders may also dial in to the FCC Wide Area Network. Qualified bidders are permitted to bid telephonically or electronically. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. For security purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. Each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 52. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number.

G. Mock Auction

62. All qualified bidders will be eligible to participate in a mock auction on Friday, July 9, 2004. The mock auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

63. The first round of bidding for Auction No. 52 will begin on Wednesday, July 14, 2004. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

64. The Commission will award all licenses in Auction No. 52 in a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of any synergies that may exist among licenses and is administratively efficient.

ii. Maximum Eligibility and Activity Rules

65. The amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder.

66. Note that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A on a bidding unit per dollar basis. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids in a round. As there is no provision for increasing a bidder's eligibility after the upfront payment deadline, prospective bidders are cautioned to calculate their upfront payments carefully. The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.

67. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction.

68. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits a bid in the current round (*see* "Minimum Acceptable Bids and Bid Increments" in section IV.B.iii). The minimum required activity is expressed as a percentage of the bidder's current bidding eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions (as set forth under "Auction Stages" in section IV.A.iii and "Stage Transitions" in section IV.A.iv), we adopt them for Auction No. 52.

iii. Auction Stages

69. The Commission will conduct the auction in three stages and employ an activity rule. Listed are the activity levels for each stage of the auction. The FCC reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses representing at least 50 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by two.

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 75 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by four-thirds (4/3).

Stage Three: During the third stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 100 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). In this final stage, reduced eligibility for the next round will be set at current round activity. For example, if a bidder does not have a standing high bid, does not place a bid in the current round, and does not have any activity rule waivers remaining, its eligibility will be reduced to zero, thereby eliminating the bidder from the auction.

Caution: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by using the bidding system's bidding module.

70. Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, we adopt them for Auction No. 52.

iv. Stage Transitions

71. The auction will generally advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) after two consecutive rounds in which only one new high bid is placed in each round.

The Bureau will retain the discretion to change stages unilaterally by announcement during the auction and retain the discretion not to make a transition to the next stage when the conditions are met.

72. Thus, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We believe that these stage transition rules are appropriate for use in Auction No. 52.

v. Activity Rule Waivers and Reducing Eligibility

73. Each bidder will be provided three activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required level. An activity rule waiver applies to an entire round of bidding and not to a particular license.

74. The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required unless: (i) There are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder has no waivers remaining and does not satisfy the required activity level, the current eligibility will be permanently reduced, possibly eliminating the bidder from the auction.

75. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in "Auction Stages" (*see* section IV.A.iii discussion). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

76. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the FCC Automated Auction System) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver triggered during a round in which there are no new bids or withdrawals will not keep the auction open.

Note: Once a proactive waiver is submitted during a round, that waiver cannot be unsubmitted.

vi. Auction Stopping Rules

77. For Auction No. 52, the Commission will employ a simultaneous stopping rule, and retain discretion to invoke a modified version of the stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder.

78. In addition, the Bureau may reserve the right to declare that the auction will end after a designated number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau may exercise these options only in certain circumstances, such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time.

vii. Auction Delay, Suspension, or Cancellation

79. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. Exercise of this authority is solely within the discretion of the Bureau and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

i. Round Structure

80. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

81. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

82. For Auction No. 52, the Commission will adopt minimum opening bids of $100,000 per channel for the licenses at the 175° W.L. and 166° W.L. orbit locations, and $200,000 per channel for the license at the 157° W.L. orbit location. Given 32 channels at 175° W.L., and 166° W.L., and 29 channels at 157° W.L., the Commission adopts minimum opening bids of $3,200,000 for the 175° W.L. and 166° W.L. licenses, and $5,800,000 for the 157° W.L. license.

83. The minimum opening bids we adopt for Auction No. 52 are reducible at the discretion of the Bureau. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any requests to reduce the minimum opening bid on specific licenses.

84. The specific minimum opening bids for each license available in Auction No. 52, are set forth in Attachment A of the *Auction No. 52 Procedures Public Notice.*

iii. Minimum Acceptable Bids and Bid Increments

85. In Auction No. 52, the Commission will employ the use of a 10 percent bid increment. This means that the minimum acceptable bid for a

license is approximately 10 percent greater than the previous standing high bid received on the license. The minimum acceptable bid amount is calculated by multiplying the standing high bid times one plus the increment percentage—*i.e.*, (standing high bid) * (1.10). The result is rounded using the Bureau's standard rounding procedures for minimum acceptable bid calculations: Results above $10,000 are rounded to the nearest $1,000; results below $10,000 but above $1,000 are rounded to the nearest $100; and results below $1,000 are rounded to the nearest $10. The Bureau will retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate.

86. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Automated Auction System will list the nine bid amounts for each license.

87. Once there is a standing high bid on a license, the FCC Automated Auction System will calculate a minimum acceptable bid for that license for the following round. The difference between the minimum acceptable bid and the standing high bid for each license will define the bid increment—*i.e.*, bid increment = (minimum acceptable bid) —(standing high bid). The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

88. At the start of the auction and until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. Corresponding additional bid amounts will be calculated using bid increments defined as the difference between the minimum opening bid times one plus the percentage increment, rounded as described, and the minimum opening bid—*i.e.*, bid increment = (minimum opening bid)(1 + percentage increment) {rounded}—(minimum opening bid). At the start of the auction and until a bid has been placed on a license, the nine acceptable bid amounts for each license consist of the minimum opening bid and additional amounts are calculated using multiple bid increments (*i.e.*, the second bid amount equals the minimum opening bid plus the bid increment, the third bid amount equals the minimum opening bid plus two times the bid increment, etc).

89. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

90. The Bureau retains the discretion to change the minimum acceptable bids and bid increments and the methodology for determining the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Automated Auction System. The Bureau may also use its discretion to adjust the minimum bid increment without prior notice if circumstances warrant.

iv. High Bids

91. At the end of each bidding round, the high bids will be determined based on the highest gross bid amount received for each license. A high bid from a previous round is sometimes referred to as a "standing high bid." A "standing high bid" will remain the high bid until there is a higher bid on the same license at the close of a subsequent round. Bidders are reminded that standing high bids count towards bidding activity.

92. In the event of identical high bids on a license in a given round (*i.e.*, tied bids), a Sybase® SQL pseudo-random number generator based on the L'Ecuyer algorithm will be used to assign a random number to each bid. The tied bid having the highest random number will become the standing high bid. The remaining bidders, as well as the high bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in a subsequent round, the high bid from the previous round will win the license. If any bids are received on the license in a subsequent round, the high bid will once again be determined on the highest gross bid amount received for the license.

v. Bidding

93. During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw high bids from a previous bidding round, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidders should note that the bidding units associated with licenses for which the bidder has removed or withdrawn its bid do not count towards the bidder's activity at the close of the round.

94. Please note that all bidding will take place remotely either through the FCC Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, four to five minutes are necessary to complete a bid submission.)

95. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (i) The licenses applied for on FCC Form 175 and (ii) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

96. In order to access the bidding functions of the FCC Automated Auction System, bidders must be logged in during the bidding round using the bidder identification number provided in the registration materials, and the passcode generated by the SecurID card. Bidders are strongly encouraged to print bid confirmations for each round after they have completed all of their activity for that round.

97. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the FCC Automated Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine bid amounts. The FCC Automated Auction System also includes an import function that allows bidders to upload text files containing bid information.

98. Finally, bidders should use caution in selecting their bid amounts because, as explained in the following section, bidders who withdraw a standing high bid from a previous round, even if mistakenly or erroneously made, are subject to bid withdrawal payments.

vi. Bid Removal and Bid Withdrawal

99. For Auction No. 52 the Commission adopts bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Commission will limit each bidder to withdrawals in no more than one round during the course of the auction. The round in which

withdrawals are used would be at the bidder's discretion.

100. *Procedures.* Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function in the bidding system, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.*, a bid that is removed does not count towards bidding activity. These procedures will enhance bidder flexibility during the auction.

101. Once a round closes, a bidder may no longer remove a bid. However, in a later round, a bidder may withdraw standing high bids from a previous round using the withdraw bid function in the FCC Automated Auction System (assuming that the bidder has not reached its withdrawal limit). A high bidder that withdraws its standing high bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g).

Note: Once a withdrawal is submitted during a round, that withdrawal cannot be unsubmitted.

102. The Bureau will limit the number of rounds in which bidders may place withdrawals to one round. This round will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in the round. Withdrawals during the auction will be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a license.

103. *Calculation.* Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the high bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single license, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s).

104. In instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. The *Part 1 Fifth Report and Order* provides specific examples showing application of the bid withdrawal payment rule.

vii. Round Results

105. Bids placed during a round will not be made public until the conclusion of that bidding period. After a round closes, the Bureau will compile reports of all bids placed, bids withdrawn, current high bids, new minimum acceptable bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 52 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

106. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

107. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying winning bidders, down payments and any withdrawn bid payments due.

108. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 52 to 20 percent of its winning bids. In addition, by the same deadline all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," section IV.B.vi. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Final Payments

109. Each winning bidder will be required to submit the balance of its winning bids within 10 business days after the deadline for submitting down payments.

C. Long-Form Application (FCC Form 312)

110. Within 30 days after release of the auction closing notice, winning bidders must submit a properly completed long-form application (FCC Form 312) and required exhibits for each license won through Auction No. 52. Further filing instructions will be provided to auction winners at the close of the auction.

D. Default and Disqualification

111. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

E. Refund of Remaining Upfront Payment Balance

112. All applicants that submitted upfront payments but were not winning bidders for a license in Auction No. 52 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

113. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining

bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If a bidder has completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser or Tim Dates, 445 12th Street, SW., Room 1– . C863 Washington, DC 20554.

114. Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418–2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Gail Glasser at (202) 418–0578 or Tim Dates at (202) 418–0496.

Federal Communications Commission.

Gary Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 04–5658 Filed 3–11–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 26, 2004.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Edward B. Baker, Nacogdoches, Texas, and Thomas E. Baker, II, New Bern, North Carolina, (individually and through power of attorney and various family trusts); Thomas E. Baker, II Revocable Trust (Edward B. Baker and Thomas E. Baker, II, co–trustees); Jean Blount Baker Marital Trust No. 2 (Edward B. Baker and Thomas E. Baker, II, co–trustees); Jean Blount Baker Exempt Marital Trust No. 2 (Edward B. Baker and Thomas E. Baker, II, co–trustees); and Jean Blount Baker (Edward B. Baker, Attorney in Fact); to retain voting shares of Nacogdoches Commercial Bancshares, Inc., Nacogdoches, Texas, and thereby indirectly acquire voting shares of Commercial Bank, Nacogdoches, Texas.

Board of Governors of the Federal Reserve System, March 8, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–5593 Filed 3–11–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 29, 2004.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Carlos Alejandro Safie, Pinecrest, Florida; to retain voting shares of Executive Banking Corporation, and thereby indirectly retain voting shares of Executive National Bank, both of Miami, Florida.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Gary Arthur Messersmith, Houston, Texas, as trustee, to acquire shares of First Community Bancshares, Inc., Houston, Texas, and thereby indirectly acquire shares of FCBI Delaware, Inc., Wilmington, Delaware, and its subsidiaries, First National Bank of Texas, Killeen, Texas, and Fort Hood National Bank, Fort Hood, Texas.

Board of Governors of the Federal Reserve System, March 9, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–5702 Filed 3–11–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 2004.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Union Bankshares Corporation, Bowling Green Virginia; to merge with Guaranty Financial Corporation, Charlottesville, Virginia, and thereby indirectly acquire Guaranty Bank, Charlottesville, Virginia.

B. Federal Reserve Bank of Chicago (Patrick Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Grant County State Bancshares, Inc., Employees Stock Ownership Plan, Swayzee, Indiana; to acquire up to 35.26 percent of the voting shares of Grant County State Bancshares, Inc., Swayzee, Indiana, and thereby indirectly increase it control of Grant County State Bank, Swayzee, Indiana.

2. MB Financial, Inc., Chicago, Illinois; to acquire 100 percent of the voting shares of First Security Fed Financial, Inc., Chicago, Illinois, and thereby indirectly acquire First Security Federal Savings Bank, Chicago, Illinois, upon its conversion to a bank.

In connection with this application, Applicant also has applied to engage in operating a savings association, pursuant to section 225.28(b)(4)(ii) of Regulation Y.

C. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. Wilshire Bancorp, Inc., Los Angeles, California; to become a bank holding company by acquiring 100 percent of the voting shares of Wilshire State Bank, Los Angeles, California.

Board of Governors of the Federal Reserve System, March 8, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–5592 Filed 3–11–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 8, 2004.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Bank of Montreal, Montreal, Canada; Harris Financial Corp., Chicago, Illinois; and Harris Bankcorp, Inc., Chicago, Illinois; to acquire 100 percent of the voting shares of New Lenox Holding Company, New Lenox, Illinois, and thereby indirectly acquire NLSB, New Lenox, Illinois.

2. Metropolitan Capital Bancorp, Inc., Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Metropolitan Capital Bank (in organization), Chicago, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. ESB Bancorp, Inc., Elberfeld, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Elberfeld State Bank, Elberfeld, Indiana.

Board of Governors of the Federal Reserve System, March 9, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–5701 Filed 3–11–04; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–04–8000]

Memorandum of Understanding Between the Food and Drug Administration and the Administration on Aging

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Administration on Aging to support education and information initiatives for older Hispanic-Americans.

DATES: The agreement became effective October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Mary C. Hitch, Office of External Relations (HF–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4406.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: March 3, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

BILLING CODE 4160–01–S

225-04-8000

MEMORANDUM OF UNDERSTANDING BETWEEN THE FOOD AND DRUG ADMINISTRATION U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE ADMINISTRATION ON AGING U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

I. Purpose and Scope

This memorandum of understanding sets up the terms of collaboration between the Food and Drug Administration (FDA) and the Administration on Aging (AoA) to support education and information initiatives for older Hispanic Americans (60 years and over). FDA and AoA are entering this agreement to address issues affecting older Hispanic Americans within the extent of each organization's jurisdictions. FDA and AoA agree to work together to promote the "One Department" theme, improve health and health education outreach through new and continuing Departmental and organizationally specific initiatives.

II. Background

Food and Drug Administration

FDA is one of the nation's oldest consumer protection agencies. FDA's mission is to promote and protect the public health by helping safe and effective products reach the market in a timely way, and monitoring products for continued safety after they are in use. FDA regulates everything from the most common food ingredients to complex medical and surgical devices, lifesaving drugs, and radiation-emitting consumer and medical products. To carryout its mission, FDA employs some 10,000 staff that work in locations around the country. The network of 167 field offices is the first point of contact for the public and regulated manufacturers. The employees in these offices focus on inspection, surveillance, laboratory work, and public and industry education.

Administration on Aging

AoA provides financial support to develop comprehensive and coordinated home and community-based care for older people and caregivers. AOA's mission is to promote the dignity and independence of older people, and to help society prepare for an aging population. Created in 1965 to carryout the Older Americans Act (OAA), AoA is a part of a federal, state, tribal and local partnership called the national Network on Aging. This network serves about 7 million older people and over 250,000 of their caregivers each year. The network consists of 56 State Agencies on Aging, 655 Area Agencies on Aging; 244 Tribal and Native organizations; two organizations that serve Native Hawaiians; 29,000 local service providers; and over 500,000 volunteers.

These organizations provide support and services to older individuals and their families in urban, suburban, and rural areas throughout the United States.

III. Substance of Agreement

FDA and AoA will work together to:

- Identify issues that affect older Hispanic Americans;
- Share perspectives and provide technical support on health care and educational needs of Older Hispanic Americans, and how policies affect older Americans.
- Cultivate and expand the partnerships with national Hispanic organizations, Hispanic electronic and print media, and other private organizations to support education and outreach to Hispanic and Latino communities.
- Develop and distribute culturally appropriate educational materials and caregivers tool kits on issues such as the safe use of medications and medication management, nutrition and healthy eating, drug interactions, adverse event reporting, antibiotic overuse, dietary supplements and health fraud.

IV. Names of Participating Parties and Liaisons:

Formal liaison is set up through appointing Agency Liaisons for FDA and AoA. The Liaisons will foster information exchange on the scope of the Agreement. Other roles of the Agency Liaisons may include working with interagency task groups to identify support and outreach opportunities.

Food and Drug Administration

Mary C. Hitch
Senior Policy Analyst (Minority Issues and Tribal Consultation)
Food and Drug Administration
Office of External Relations
5600 Fishers Lane, Room 16-70
Rockville, Maryland 20857
301-387-4406
301-827-4396

Administration on Aging

Marla Bush
International Coordinator
Administration on Aging
1 Massachusetts Avenue, N.W.
Washington, D.C. 20260
202-357-3508
202-357-3560

V. Period of Agreement

This agreement becomes effective on acceptance by both parties. It may be adjusted by mutual written consent or terminated by either party on a 60-day advance written notice to the other party. If there is ever an exchange of funds or services, a formal Interagency Agreement will be executed.

VI. Approval

Food and Drug Administration

Commissioner for Food and Drugs
Food and Drug Administration
Department of Health and Human Services

10/17/03
Date

Administration on Aging

Assistant Secretary for Aging
Administration on Aging
Department of Health and Human Services

10/17/03
Date

[FR Doc. 04–5569 Filed 3–11–04; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–04–4002]

Memorandum of Understanding Between the Food and Drug Administration and Blacks In Government, Inc.

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the Food and Drug Administration and Blacks In Government, Inc. to promote health and disease prevention initiatives supported by Healthy People 2010 goals and Department of Health and Human Services initiatives.

DATES: The agreement became effective October 22, 2003.

FOR FURTHER INFORMATION CONTACT: Patrick C. Wilson, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3097.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOUs between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: March 3, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

BILLING CODE 4160–01–S

225-04-4002

MEMORANDUM OF UNDERSTANDING BETWEEN U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE FOOD AND DRUG ADMINISTRATION, AND BLACKS IN GOVERNMENT, INC.,

I. PURPOSE

This Memorandum of Understanding (MOU) defines a broad programmatic scope, policies and principles where educational campaigns on food safety education for children, families and communities may be carried out. The programs to be carried under this MOU are supported by the Public Health Service Act and Department of Health and Human Services (HHS) initiatives, including Healthy People 2010 goals, which call for leadership to promote health and disease prevention.

II. BACKGROUND

The parties to this agreement intend to work to address issues affecting children, families and communities within the context of each organization's jurisdiction. The Food and Drug Administration (FDA), HHS, and Blacks In Government, Inc. (BIG) have been independently conducting programs to increase the public's understanding of food safety and to involve these individuals in their respective programs. All recognize the success of those efforts could be improved by greater collaboration and share common interests in educating children and families on food safety.

BIG has focused its outreach on the needs of children, families and communities. Similarly, the FDA has focused its efforts mostly on the needs of the general population with intermittent emphasis on adolescent and youth populations.

The goals of this collaboration will be to carry out the following:

- Improve the health and well-being of children, families and communities;
- Increase understanding and access to food safety education materials;
- Provide support to increase the delivery of suitable, educational materials and information;
- Provide information to promote informed health choices about the benefits and risks of FDA-regulated products;
- Support distribution methods for health education materials through elementary and middle schools;

- Support conferences, focus groups, and consumer studies that provide perspectives on the health care needs of children, families and communities; and

- Support educational programs and events that encourage and promote food safety.

III. SCOPE OF WORK

The FDA and BIG express their firm intent to address issues of children, families and communities within the context of food safety education. Given the diversity of education, knowledge, understanding and the American culture, BIG will work with FDA to increase outreach to children, families and communities.

FDA and BIG have set up formal liaisons for both organizations that will foster information exchanges through this MOU. Other roles of the organization liaisons may include:

- Work with joint task groups to identify the support and outreach necessary to provide children, families and communities with information and education; and

- Exchange information on currently funded programs that have objectives to address food safety educational needs of children, families and communities.

IV. DURATION OF AGREEMENT

This MOU will become effective on acceptance by all parties and will continue in effect indefinitely. This MOU may be changed by common written consent or terminated by either party on 60-day advance notice to the other parties.

V. LIAISONS/PROJECT OFFICERS

Food and Drug Administration

LaJuana D. Caldwell
Director, Office of the Executive Secretariat
Office of External Relations
Office of the Commissioner
Food and Drug Administration
5600 Fishers Lane, Room 16-70
Rockville, Maryland 20857
301-827-3424
301-827-4396 FAX

Dr. Beverly Lyn-Cook
Blacks In Government, Inc.
3005 Georgia Avenue, N.W.
Washington, D.C. 20001
202-667-3280
202-667-3705 FAX

VII. AUTHORIZING SIGNATURES AND DATES

APPROVED AND ACCEPTED BY:

FOOD AND DRUG ADMINISTRATION

Mark B. McClellan, M.D., Ph.D.
Commissioner of Food and Drugs

Date: Oct 22, 2003

BLACKS IN GOVERNMENT, INC.

for Gregory Reeves
President

Date: Oct 22, 2003

[FR Doc. 04–5568 Filed 3–11–04; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: February 2004

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of February 2004, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusions is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.*, a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

OFFICE OF INVESTIGATION OFFICE OF INSPECTOR GENERAL—DHHS CASE INVESTIGATION MANAGEMENT SYSTEM

[For Press Release From 2/1/2004–2/29/2004]

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ABRAMOV, EDUARD ELOY, AZ	3/18/2004
BROOKS, TAMMY DECATUR, GA	3/18/2004
CANNAVO, JOSEPH PHILADELPHIA, PA	3/18/2004
CARDO, STEVEN JACKSONVILLE, FL	3/18/2004
CHERRY, ADAM CORAL SPRINGS, FL	3/18/2004
CONLEY, JANICE WESLEY CHAPEL, FL	3/18/2004
CONNELL, JEFFREY GOREVILLE, IL	3/18/2004
CRANWELL, WILLIAM ROANOKE, VA	8/1/2003
DAVIS, DIXIE VINTON, IA	3/18/2004
DO, KEVIN TAFT, CA	3/18/2004
EMERALD PHYSICAL THERAPY, PC	3/18/2004

OFFICE OF INVESTIGATION OFFICE OF INSPECTOR GENERAL—DHHS CASE INVESTIGATION MANAGEMENT SYSTEM—Continued

[For Press Release From 2/1/2004–2/29/2004]

Subject, city, state	Effective date
MT PLEASANT, MI EYFORD, INC FISHERS, IN	3/18/2004
FANN, EDWARD ST LOUIS, MO	7/26/2003
FELDMAN, BRUCE BRYN MAWR, PA	3/18/2004
FERNANDEZ, ANGEL MIAMI BEACH, FL	3/18/2004
GARCIA, KATHERINE FARIBAULT, MN	3/18/2004
GELLIS, RICHARD SACRAMENTO, CA	3/18/2004
HCMF CORPORATION ROANOKE, VA	8/28/2003
KENNEDY, PATRICIA JACKSONVILLE, FL	3/18/2004
LEMES, ANDREW ROCHESTER, MN	3/18/2004
LOPEZ, JOHN HILLSIDE, NJ	3/18/2004
MAHMUD, ASIF BROOKLYN, NY	3/18/2004
MARQUEZ, FRANCISCO WHITTIER, CA	3/18/2004
MARTINEZ, ANA VACAVILLE, CA	3/18/2004
MOORE, TAMARA ANDERSON, SC	3/18/2004
MYERS, LAWRENCENIA	3/18/2004

OFFICE OF INVESTIGATION OFFICE OF INSPECTOR GENERAL—DHHS CASE INVESTIGATION MANAGEMENT SYSTEM—Continued

[For Press Release From 2/1/2004–2/29/2004]

Subject, city, state	Effective date
FLORENCE, SC	
NEBESNIAK, LAWRENCE OMAHA, NE	3/18/2004
PHAN, PATRICK BELLEVUE, WA	3/18/2004
PONDER, NATHANIEL MIRAMAR, FL	3/18/2004
RAMNATH, RAMACHANDRAN SYOSSETT, NY	3/18/2004
REDONDO, LEONARDO MIAMI LAKES, FL	3/18/2004
REYES, CARLOS E AMHERST, NY	3/18/2004
ROBLAS, ESTERHILDA VACAVILLE, CA	3/18/2004
ROYSTER, RICHARD PHILADELPHIA, PA	3/18/2004
SAMA, ROLANDO MIAMI BEACH, FL	3/18/2004
SLEETH, ERNEST EGLIN AFB, FL	3/18/2004
STEELE, LAMONT TALLADEGA, AL	3/18/2004
SWINIUCH, JAMES NEWTOWN SQUARE, PA	3/18/2004
TATE, KLAUS PEARL, MS	3/18/2004
THOMPSON, DOROTHY HALFWAY, OR	3/18/2004
THURMAN, SEABORN MT PLEASANT, SC	3/18/2004
TOKARENKO, GALINA SEATTLE, WA	3/18/2004
VALLE, GUSTAVO SALT LAKE CITY, UT	3/18/2004
WEISSIG, PHYLLIS SPOKANE, WA	3/18/2004
WINN, PAMELA COLLEGE PARK, GA	3/18/2004
WINSBRO, WILLIAM CLINTON, TN	3/18/2004
WOLBERG, DIEDRE ALBANY, NY	3/18/2004
FELONY CONVICTION FOR HEALTH CARE FRAUD	
ARCHULETA, FRANCES LAS ANIMAS, CO	3/18/2004
BECK, MARK GEORGETOWN, SC	3/18/2004
ELIA-RAGGIO, LORI MOUNT LAUREL, NJ	3/18/2004
HADDAS, EDWARD WEAVERVILLE, NC	3/18/2004
HAHN, KELLIE CARY, NC	3/18/2004
IRANI, GEVE LOS ANGELES, CA	3/18/2004
MCDOUGALL, DAWN LAKEVIEW, OR	3/18/2004
MYERS, JACK SEADRIFT, TX	3/18/2004
OHANESIAN, KEITH SHERMAN OAKS, CA	3/18/2004
PATRICK, GAIL BALLWIN, MO	3/18/2004
SCHELLE, MICHELLE PINE BLUFF, AR	3/18/2004
STEPHENS, SHARON TALLAHASSEE, FL	3/18/2004
FELONY CONTROL SUBSTANCE CONVICTION	
BISHOP, RANDY SEAGOVILLE, TX	3/18/2004
BROOKS, MAUREEN BELMAR, NJ	3/18/2004
BURGETT, DONNA CLAYTON, MO	3/18/2004
BURRIES, SOLOMON LAKE ELSINORE, CA	3/18/2004
FELDERMAN, LINDA BEAVERTON, OR	3/18/2004
GALLOWAY, LESLIE ERIE, PA	3/18/2004
GRIECO, MICHELLE SARASOTA, FL	3/18/2004
HUBBARD, KATHLEEN MUSKEGON, MI	3/18/2004
KAZMAN, ARTHUR DOLYESTOWN, PA	3/18/2004
MARION, EVELYN PUNTA GORDA, FL	3/18/2004
MCKINSTRY, ROBIN ORANGE PARK, FL	3/18/2004
PETERSON, EDWARD LEEDS, AL	3/18/2004
ROONEY, JAE MOORE, OK	3/18/2004
SCHREY, FREDERICK SAYLORSBURG, PA	3/18/2004
SNYDER, STEVEN MANCHESTER, KY	3/18/2004
YARBORO, COLONEL COLUMBUS, OH	3/18/2004
PATIENT ABUSE/NEGLECT CONVICTIONS	
ALOWONLE, FATAI LITTLE CANADA, MN	3/18/2004
BINES, KENNETH MONROE, WA	3/18/2004
BOISELLE, DAVID EVERETT, WA	3/18/2004
COTTERMAN, DANIEL CUMMING, GA	3/18/2004
DOTTER FAMILY CORPORATION PITTSBURGH, PA	3/18/2004
ESQUIVEL, FIDEL BUFORD, GA	3/18/2004
GEORGE, LESLIE ST MARYS, GA	3/18/2004
GILES, PATRICIA SAVANNAH, GA	3/18/2004
GREEN, EURONDA ST PETERSBURG, FL	3/18/2004
HOLMES, FLOYD ALEXANDRIA, LA	3/18/2004
ISOM, BARBARA ATLANTA, GA	3/18/2004
JACKSON, KATHERINE WOODBINE, GA	3/18/2004
LIGON, LYNN RIVERHEAD, NY	3/18/2004
MCALLISTER, SHALENA ROME, GA	3/18/2004
MICHAELSON, JOE BOONE, CO	3/18/2004
NICKELSON, JUANITA ROXIE, MS	3/18/2004
OGBONNA, CHINONSO WINDSOR MILL, MD	3/18/2004
PITTSLEY, ELIZABETH CINCINNATUS, NY	3/18/2004
SHORT, LAFONDA BUTLER, GA	3/18/2004
SNYDER, TAMMY MORIAH, NY	3/18/2004
THOMAS, DEBORAH MEADVILLE, MS	3/18/2004
WILLIAMS, HALINTON JASPER, FL	3/18/2004
WOFFORD, ERIC FRANKFORT, KY	3/18/2004
CONVICTION FOR HEALTH CARE FRAUD	
ABERLE, MELISSA MEMPHIS, TN	3/18/2004
CONVICTION-OBSTRUCTION OF AN INVESTIGATION	
CG NUTRIONALS, INC ABBOTT PARK, IL	6/23/2003
LICENSE REVOCATION/SUSPENSION/ SURRENDERED	
ALLEN-WALKER, JAMINA LOVELL, WY	3/18/2004
ANDRUS, MARY MOUNT VERNON, WA	3/18/2004
ARNOLD, DOROTHY BATH, NY	3/18/2004
AUDET, CHRISTINA MARYSVILLE, WA	3/18/2004
BAKER, TAWNY SEQUIM, WA	3/18/2004
BATSON, DOROTHY TUCSON, AZ	3/18/2004
BAUMGARDNER, KIMBERLY KINGSPORT, TN	3/18/2004
BELL, JOHN CAMERON PARK, CA	3/18/2004
BLACK, ROBERT LAWRENCEVILLE, GA	3/18/2004
BRENDEL, AQUILLA YORK, PA	3/18/2004
BROWN, ANGELA PRATTVILLE, AL	3/18/2004
BROWN, TINA MIDLOTHIAN, VA	3/18/2004
BROWNING, WILLIAM LEXINGTON, MA	3/18/2004
BRYAN, WILLIAM	3/18/2004

OFFICE OF INVESTIGATION OFFICE OF INSPECTOR GENERAL—DHHS CASE INVESTIGATION MANAGEMENT SYSTEM—Continued

[For Press Release From 2/1/2004–2/29/2004]

Subject, city, state	Effective date
GLENDALE, AZ	
BURGER, JIMMIE	3/18/2004
MIAMI, FL	
BUTLER, DAVID	3/18/2004
BONITA, CA	
CANTRELL, JACK	3/18/2004
PHOENIX, AZ	
CARLSON, CATHY	3/18/2004
MESA, AZ	
CLARK, SHONDA	3/18/2004
ENOSBURG FALLS, VT	
CLAYTON, MICHELLE	3/18/2004
SHENANDOAH, IA	
CLONCH, MARK	3/18/2004
CHINO, CA	
CONLEY, JENNIFER	3/18/2004
WYOMING, PA	
DAVIS, JULIE	3/18/2004
DELMONT, PA	
DAWSON, CHRIS	3/18/2004
AUBURN, CA	
DE JESUS, SHAWN	3/18/2004
UNION CITY, CA	
DESHONG, PAMELA	3/18/2004
SHIPPENSBURG, PA	
DIEGUEZ, WENDY	3/18/2004
PLANTATION, FL	
DODSON, EMILY	3/18/2004
WHITE BLUFF, TN	
DOMENECH, BECKY	3/18/2004
ORLANDO, FL	
DOUB, KRISTY	3/18/2004
PFAFFTOWN, NC	
DUCHARME, DENIS	3/18/2004
AUBURN, ME	
ELLIS, MICHAEL	3/18/2004
MARSHALL, TX	
EMMERSON, LLOYD	3/18/2004
CLOVIS, CA	
FEATHERINGILL, REGINA	3/18/2004
BIRMINGHAM, AL	
FOLSOM, CHRISTINE	3/18/2004
CHARLOTTE, NC	
FONTENOT, CATHERINE	3/18/2004
IOWA, LA	
FURGERSON, JACQUELINE	3/18/2004
LEASBURG, MO	
GIBERTI, ROCCO	3/18/2004
WARREN, ME	
GOFF, TRACY	3/18/2004
GLENDALE, AZ	
HACKETT, RIVON	3/18/2004
PARMA HEIGHTS, OH	
HALE, GARRY	3/18/2004
SMITHVILLE, TN	
HARDAGE, DAVID	3/18/2004
SAN ANTONIO, TX	
HARDEE, MICHAEL	3/18/2004
SEMINOLE, FL	
HART, WILLIAM	3/18/2004
BRISTON, FL	
HASLEY, STEVEN	3/18/2004
MELBOURNE, FL	
HEADY, LAURA	3/18/2004
GAINESBORO, TN	
HENRY, DIANA	3/18/2004

OFFICE OF INVESTIGATION OFFICE OF INSPECTOR GENERAL—DHHS CASE INVESTIGATION MANAGEMENT SYSTEM—Continued

[For Press Release From 2/1/2004–2/29/2004]

Subject, city, state	Effective date
FORT LAUDERDALE, FL	
HENSEL, MARNNIE	3/18/2004
ABILENE, TX	
HERRING, HUBERT	3/18/2004
JACKSONVILLE, FL	
HERRINGTON, LAURIE	3/18/2004
LOUISVILLE, TN	
HOSTLER, JOHN	3/18/2004
COLUMBUS, OH	
HUNT, ELENA	3/18/2004
LACEY, WA	
HURLBURT, BRIAN	3/18/2004
CHELSEA, VT	
JACKSON, BARBARA	3/18/2004
ARVADA, CO	
JAMES, CARLA	3/18/2004
GLENDALE, AZ	
JOHNSON, ANDREA	3/18/2004
KESWICK, VA	
JOHNSON, TERESA	3/18/2004
FULTONDALE, AL	
JONES, WILLIAM	3/18/2004
RICHMOND, CA	
KAZMI, SYED	3/18/2004
CHICAGO, IL	
KEEFER, LAURA	3/18/2004
WILLOW SPRINGS, NC	
KOZLOWSKI, KARIE	3/18/2004
TUCSON, AZ	
LANDRY, NORMA	3/18/2004
LABADIEVILLE, LA	
LAWSON, CAROL	3/18/2004
TERRE HAUTE, IN	
LOCKLEAR, TRACEY	3/18/2004
MAXTON, NC	
LOEFFLER, BRIAN	3/18/2004
TIBURON, CA	
MAAT, THOMAS	3/18/2004
TOMS RIVER, NJ	
MACFARLANE, VICTORIA	3/18/2004
BREMERTON, WA	
MACK, SANDRA	3/18/2004
SOMERVILLE, OH	
MAHANA, LARRY	3/18/2004
APACHE JUNCTION, AZ	
MALAKE, KRISTEN	3/18/2004
DES MOINES, IA	
MASSIE, TRINA	3/18/2004
PALM BAY, FL	
MAYNARD, MELODIE	3/18/2004
CAVE CREEK, AZ	
MCCACHERN, ALLYSON	3/18/2004
ADVANCE, NC	
MCCLINTOCK, JOHN	3/18/2004
COALINGA, CA	
MCKNIGHT, GINA	3/18/2004
BEECHGROVE, TN	
MOOHEYHAM SHIPPY, MELISSA	3/18/2004
BIMBLE, KY	
MUNTZING, MAYNARD	3/18/2004
LONDON, OH	
MURO, FRANCISCO	3/18/2004
PALMDALE, CA	
MUTZ, THEODORE	3/18/2004
SACRAMENTO, CA	
MYLES, JANICE	3/18/2004

OFFICE OF INVESTIGATION OFFICE OF INSPECTOR GENERAL—DHHS CASE INVESTIGATION MANAGEMENT SYSTEM—Continued

[For Press Release From 2/1/2004–2/29/2004]

Subject, city, state	Effective date
PHOENIX, AZ	
NAULLS, KITTY	3/18/2004
BRYAN, TX	
NELSON, HOLLY	3/18/2004
OCEAN SHORES, WA	
NEWELL, REBECCA	3/18/2004
NEW VIRGINIA, IA	
NORMAN, JOYCE	3/18/2004
PALM BAY, FL	
ODINGA, SAMWEL	3/18/2004
NEVADA, MO	
PARENT, BRIAN	3/18/2004
CORDOVA, NC	
PARKER, JAMES	3/18/2004
RICHMOND, VA	
PEREZ, JORGE	3/18/2004
PALISADES PARK, NJ	
PHILLIPS, LORI	3/18/2004
VANDERGRIFT, PA	
POLSIN, MICHAEL	3/18/2004
HOLLYWOOD, MD	
PRADA, ENRIQUE	3/18/2004
WINTER GARDEN, FL	
REINARD, HOLLY	3/18/2004
DAYTONA BEACH, FL	
REYER, TARA	3/18/2004
HOCKLEY, TX	
RIDDLE, WILLIAM	3/18/2004
FAISON, NC	
ROLLINS, MAURICE	3/18/2004
SONORA, CA	
ROOKHUYZEN, VAN	3/18/2004
SAN FRANCISCO, CA	
ROSCO, DEA	3/18/2004
VALLEJO, CA	
SANDERS, JACKIE	3/18/2004
WICHITA, KS	
SCHWARTZ, MICHEAL	3/18/2004
KENNER, LA	
SHAFFER, JOHN	3/18/2004
LEXINGTON, NC	
SHAIKH, MARIE	3/18/2004
GLENDALE, AZ	
SHAW, KAREN	3/18/2004
SMITHVILLE, TN	
SIBLEY, STEPHEN	3/18/2004
ORMOND BEACH, FL	
STABLEIN, LISA	3/18/2004
TAMPA, FL	
STANDARD, JOANNE	3/18/2004
HAUPPAUGE, NY	
STEVENS, BARBARA	3/18/2004
ORMOND BEACH, FL	
STEVENSON, RANDY	3/18/2004
GRAND JUNCTION, CO	
SWAN, LEA	3/18/2004
SPOKANE, WA	
TINKHAM, PHILLIP	3/18/2004
ATLANTA, GA	
TRAN, HENRY	3/18/2004
BALDWIN PARK, CA	
TRESIZE, JANE	3/18/2004
SATELLITE BEACH, FL	
WANG, XIN	3/18/2004
MONTEREY PARK, CA	
WEAVER, LOIS	3/18/2004

OFFICE OF INVESTIGATION OFFICE OF INSPECTOR GENERAL—DHHS CASE INVESTIGATION MANAGEMENT SYSTEM—Continued

[For Press Release From 2/1/2004–2/29/2004]

Subject, city, state	Effective date
NEWTON, NC	
WELCH, MARK	3/18/2004
PARK CITY, KS	
WILKERSON, VIKKI	3/18/2004
KENT, WA	
WILSON, KAREN	3/18/2004
MARTINEZ, CA	
WILSON, SALLIE	3/18/2004
HILTON HEAD ISLAND, SC	
WOMELDORPH-ANNARINO, NANCY	3/18/2004
NEWARK, OH	
YUN, GARY	3/18/2004
GLENVIEW, IL	
ZEBRANEK, JAMES	3/18/2004
ORLANDO, FL	
FEDERAL/STATE EXCLUSION/ SUSPENSION	
CASTRO, ROBERT	3/18/2004
OXNARD, CA	
THOMPSON, KENNETH	3/18/2004
FLENINGTON, NJ	
FRAUD/KICKBACKS	
BISTATE REHAB, INC	7/26/2003
ST LOUIS, MO	
LONG TERM CARE PROVIDERS, INC	7/26/2003
ST LOUIS, MO	
OWNED/CONTROLLED BY CONVICTED ENTITIES	
BROOKS MEDICAL BILLING	3/18/2004
DECATUR, GA	
RURAL HEALTH TECHNOLOGIES, INC	3/18/2004
SPRINGERVILLE, AZ	
FAILURE TO PROVIDE PAYMENT INFORMATION	
CORCORAN, MAUREEN	11/25/2003
CHICAGO, IL	
DEFAULT ON HEAL LOAN	
ANDERSON, JEFFREY	3/18/2004
HAYWARD, CA	
CASTRO, HENRY	3/18/2004
CORPUS CHRISTI, TX	
MCCALLUM, RONALD	3/18/2004
SUNNYVALE, CA	
WADDLE, TOM	3/18/2004
FORT WORTH, TX	

Dated: February 2, 2004.

Katherine B. Petrowski,

Director, Exclusions Staff, Office of Inspector General.

[FR Doc. 04–5639 Filed 3–11–04; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Homeland Security Advisory Council

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The Homeland Security Advisory Council (HSAC) will hold its next meeting in Washington, DC, on March 31, 2004. The HSAC will meet for purposes of: (1) Welcoming and swearing in new members; (2) completing discussions on the Homeland Security Lexicon Project; (3) receiving briefings on the DHS Strategic Plan and DHS Strategic Goals for 2004 (tentative); (4) receiving reports from Senior Advisory Committees and subgroups; (5) receiving briefings from DHS staff on Departmental initiatives; and (6) holding roundtable discussions with and among HSAC members. The HSAC is also tentatively scheduled for a briefing and tour of U.S. Secret Service facilities.

This meeting will be partially closed; the open portions of the meeting for purposes of (1) through (4) above will be held at the U.S. Secret Service Headquarters, 950 H Street, NW., Washington, DC from 10 a.m. to 12 p.m. The closed portions of the meeting, for purposes of (5) and (6) above will be held at the U.S. Secret Service Headquarters from 9 a.m. to 9:50 a.m. and from 12:10 p.m. to 2:45 p.m. Due to transportation and building capacity limitations, as well as security concerns, the public would be unable to accompany the HSAC on the proposed U.S. Secret Service facilities tour.

Public Attendance: A limited number of members of the public may register to attend the public session on a first-come, first-served basis per the procedures that follow. Security requires that any member of the public who wishes to attend the public session provide his or her name, social security number, and date of birth no later than 5 p.m. e.s.t., Thursday, March 25, 2004. Please provide the required information to Mike Miron or Jeff Gaynor of the HSAC staff, via e-mail at *HSAC@dhs.gov*, or via phone at (202) 692–4283. Persons with disabilities who require special assistance should indicate so in their admittance request. Photo identification will be required for entry into the public session, and everyone in attendance must be present and seated by 9:45 a.m.

Basis for Closure: In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. app. 2), the Secretary has issued a determination that portions of this HSAC meeting will concern matters sensitive to homeland security within the meaning of 5 U.S.C. 552b(c)(7) and (c)(9)(B) and that, accordingly, these portions of the meeting will be closed to the public.

Public Comments: Members of the public who wish to file a written statement with the HSAC may do so by mail to Mike Miron at the following address: Homeland Security Advisory Council, Department of Homeland Security, Washington, DC 20528. Comments may also be sent via email to HSAC@dhs.gov or via fax at (202) 772–9718.

Dated: March 3, 2004.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 04–5664 Filed 3–11–04; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4907–N–08]

Notice of Proposed Information Collection: Comment Request; Lender Qualifications for Multifamily Accelerated Processing (MAP)

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: May 11, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or *Wayne_Eddins@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Michael L. McCullough, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202)

708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Lender Qualifications for Multifamily Accelerated Processing (MAP).

OMB Control Number, if applicable: 2502–0541.

Description of the need for the information and proposed use: Multifamily Accelerated Processing (MAP) was initiated by the Department in May 2000. MAP is a procedure that permits approved lenders to prepare, process, and submit loan applications for Federal Housing Administration (FHA) multifamily mortgage insurance. An FHA-approved multifamily Lender wishing to participate in MAP must submit a MAP application package so that HUD may determine whether or not it meets the additional qualifications required of a MAP Lender. The Quality Control Plan is now a required exhibit in the Lender application package. Current MAP Lenders will also be required to submit Quality Control Plans.

Agency form numbers, if applicable: None.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The annual number of respondents is 25 for new MAP Lender approval applications, and 114 for existing MAP Lenders submitting Quality Control Plans. The hours per response is 20 hours for the MAP Lender application, and 10 hours for the Quality Control Plan. The total estimated annual burden hours is 1,640.

Status of the proposed information collection: Reinstatement with change of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 5, 2004.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 04–5604 Filed 3–11–04; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4901–N–11]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Burruss, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Shirley Kramer, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Kathy Burruss at the address listed at the beginning of this Notice. Included in the request for review should be the property address

(including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *AGRICULTURE:* Ms. Marsha Pruitt, Realty Officer, Department of Agriculture, Reporters Building, 300 7th Street, SW., Rm. 310B, Washington, DC 20250; (202) 720–4335; *ARMY:* Ms. Julie Jones-Conte, Headquarters, Department of the Army, Office of the Assistant Chief of Program Integration Office, Attn: DAIM–MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310–0600; (703) 692–9223; *COAST GUARD:* Commandant, U.S. Coast Guard, Attn: Teresa Sheinberg, 2100 Second St., SW., Rm. 6109, Washington, DC 20593–0001; (202) 267–6142; *ENERGY:* Mr. Tom Knox, Department of Energy, Office of Engineering & Construction Management, CR–80, Washington, DC 20585; (202) 586–8715; *NAVY:* Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: March 4, 2004.

Mark R. Johnston,

Acting Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 3/12/2004

Suitable/Available Properties

Buildings (by State)

California

Bldg. 00726
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410082
Status: Unutilized
Comment: 4100 sq. ft., presence of asbestos, potential lead base paint, most recent use—vehicle maint., off-site use only

Bldg. 00736
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410083
Status: Unutilized
Comment: 250 sq. ft., presence of asbestos, potential lead base paint, most recent use—storage, off-site use only

Bldg. 00776
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410084
Status: Unutilized
Comment: 3060 sq. ft., presence of asbestos, potential lead base paint, most recent use—storage, off-site use only

Bldg. 00930
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410085
Status: Unutilized
Comment: 26,635 sq. ft., presence of asbestos, potential lead base paint, most recent use—admin., off-site use only

Bldg. 00934
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410086
Status: Unutilized
Comment: 1275 sq. ft., presence of asbestos, potential lead base paint, most recent use—storage, off-site use only

Bldg. 00938
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410087
Status: Unutilized
Comment: 1550 sq. ft., presence of asbestos, potential lead base paint, most recent use—classroom, off-site use only

Hawaii

5 Bldgs.
Schofield Barracks
3900, 3904, 3905, 3913, 3916
Wahiawa Co: Honolulu HI 96857–
Landholding Agency: Army
Property Number: 21200410093
Status: Unutilized
Comment: 7393 sq. ft. each, concrete, most recent use—housing, off-site use only

4 Bldgs.
Schofield Barracks
3903, 3908, 3909, 3910
Wahiawa Co: Honolulu HI 96857–
Landholding Agency: Army
Property Number: 21200410094
Status: Unutilized
Comment: 5820 sq. ft. each, concrete, most recent use—housing, off-site use only

4 Bldgs.
Schofield Barracks
3917, 3924, 3935, 3941
Wahiawa Co: Honolulu HI 96857–
Landholding Agency: Army
Property Number: 21200410095
Status: Unutilized
Comment: 4470 sq. ft. each, concrete, most recent use—housing, off-site use only

14 Bldgs.
Schofield Barracks
Wahiawa Co: Honolulu HI 96857–
Location: 3918–3919, 3921–3923, 3925–3929, 3931, 3933, 3937, 3939
Landholding Agency: Army
Property Number: 21200410096
Status: Unutilized
Comment: 4820 sq. ft. each, concrete, most recent use—housing, off-site use only

Maryland

Bldg. 8503
Fort George G. Meade
Ft. Meade Co: MD 20755–5115
Landholding Agency: Army
Property Number: 21200410097
Status: Unutilized
Comment: 3801 sq. ft., concrete block, most recent use—office, off-site use only

Bldg. 8542
Fort George G. Meade
Ft. Meade Co: MD 20755–5115
Landholding Agency: Army
Property Number: 21200410098
Status: Unutilized
Comment: 2372 sq. ft., most recent use—office, off-site use only

Bldg. 8611
Fort George G. Meade
Ft. Meade Co: MD 20755–5115
Landholding Agency: Army
Property Number: 21200410100
Status: Unutilized
Comment: 38,490 sq. ft., concrete brick, most recent use—barracks, off-site use only

Missouri

12 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 07036, 07050, 07054, 07102, 07400, 07401, 08245, 08249, 08251, 08255, 08257, 08261.
Landholding Agency: Army
Property Number: 21200410110
Status: Unutilized
Comment: 7152 sq. ft. 6 plex housing quarters, potential contaminants, off-site use only

6 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 07044, 07106, 07107, 08260, 08281, 08300
Landholding Agency: Army
Property Number: 21200410111
Status: Unutilized
Comment: 9520 sq ft., 8 plex housing quarters, potential contaminants, off-site use only

15 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 08242, 08243, 08246–08248, 08250, 08252,–08254, 08256, 08258–08259, 08262–08263, 08265
Landholding Agency: Army
Property Number: 21200410112
Status: Unutilized
Comment: 4784 sq ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldgs. 08283, 08285
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410113
Status: Unutilized
Comment: 2240 sq ft., 2 plex housing quarters, potential contaminants, off-site use only

15 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944

Location: 08267, 08269, 08271, 08273, 08275, 08277, 08279, 08290–08296, 08301
Landholding Agency: Army
Property Number: 21200410114
Status: Unutilized
Comment: 4784 sq ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldg. 09432
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410115
Status: Unutilized
Comment: 8724 sq ft., 6-plex housing quarters, potential contaminants, off-site use only

Montana

Ofc. Bldg.
Aerial Fire Depot
Missoula Co: MT 59808–
Landholding Agency: Agriculture
Property Number: 15200410001
Status: Unutilized
Comment: 957 sq. ft. w/598 sq. ft. garage, presence of asbestos, off-site use only

Wisconsin

Bldg. 06018
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 21200410108
Status: Unutilized
Comment: 356 sq. ft., presence of asbestos/lead paint, most recent use—gun club, off-site use only

Bldg. 06019
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 21200410109
Status: Unutilized
Comment: 1133 sq. ft., presence of asbestos/lead paint, most recent use—gun club, off-site use only

Suitable/Unavailable Properties

Buildings (by State)

Colorado

Bldg. 1040
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410088
Status: Unutilized
Comment: 13,280 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—dining facility, off-site use only

Bldgs. P1042, P1043, P1044
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410089
Status: Unutilized
Comment: 40,639 sq. ft., needs repair, presence of asbestos/lead painting, most recent use—barracks, off-site use only

Bldg. 1045
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410090
Status: Unutilized
Comment: 12,115 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—admin/supply, off-site use only

Bldgs. P1046, P1047
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410091
Status: Unutilized
Comment: 40,639 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. P1049
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410092
Status: Unutilized
Comment: 12,115 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—admin/supply, off-site use only

Maryland

Bldg. 8608
Fort George G. Meade
Ft. Meade Co: MD 20755–5115
Landholding Agency: Army
Property Number: 21200410099
Status: Unutilized
Comment: 2372 sq. ft., concrete block, most recent use—PX exchange, off-site use only

Bldg. 8612
Fort George G. Meade
Ft. Meade Co: MD 20755–5115
Landholding Agency: Army
Property Number: 21200410101
Status: Unutilized
Comment: 2372 sq. ft., concrete block, most recent use—family life ctr., off-site use only

Missouri

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410102
Status: Unutilized
Comment: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410103
Status: Unutilized
Comment: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410104
Status: Unutilized
Comment: 120 sq. ft., most recent use—observation tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410105
Status: Unutilzed
Comment: 800 sq. ft., most recent use—range support, off-site use only

North Carolina

Bldgs. 400–405
Military Ocean Terminal
Southport Co: Brunswick NC 28461–
Landholding Agency: Army
Property Number: 21200410106
Status: Excess
Comment: housing—1 residence, 2 duplexes, presence of asbestos/lead paint, off-site use only

Virginia

Bldg. T0258
Fort Monroe
Ft. Monroe Co: VA 23651–
Landholding Agency: Army
Property Number: 21200410107
Status: Excess
Comment: 4830 sq. ft., possible lead paint, presence of asbestos, most recent use—admin., off-site use only

Unsuitable Properties

Buildings (by State)

Alaska

Heavy Equipment Shed
Coast Guard
off Hanagita Street
Valdez Co: AK
Landholding Agency: Coast Guard
Property Number: 88200410010
Status: Excess
Reason: Extensive deterioration

California

Bldg. P7057
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200410024
Status: Excess
Reason: Extensive deterioration

Guam

Bldgs. 201, 202
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410025
Status: Excess
Reason: Extensive deterioration

Bldg. 151
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410026
Status: Excess
Reason: Extensive deterioration

Bldg. 262
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410027
Status: Excess
Reason: Extensive deterioration

Bldg. 369A
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410028

Status: Excess
Reason: Extensive deterioration
Bldg. 739
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410029
Status: Excess
Reason: Extensive deterioration
Bldg. 741
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410030
Status: Excess
Reason: Extensive deterioration
Bldg. 865
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410031
Status: Excess
Reason: Extensive deterioration
Bldg. 3011
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410032
Status: Excess
Reason: Extensive deterioration

Idaho

Bldg. CPP T1/T5
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410008
Status: Excess
Reason: Secured Area
Bldg. CPDTB1
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410009
Status: Excess
Reason: Secured Area
Bldgs. CPPTB4, CPPTB6
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410010
Status: Excess
Reason: Secured Area
Bldgs. CPP617, CPP169
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410011
Status: Excess
Reason: Secured Area
Bldg. CPP620A
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410012
Status: Excess
Reason: Secured Area
Bldg. CPP637/620
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410013
Status: Excess
Reason: Secured Area
Bldgs. CPP638, CPP642
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410014
Status: Excess
Reason: Secured Area
Bldgs. CPP656, 664
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410015
Status: Excess
Reason: Secured Area
Bldgs. CPP665, CPP672
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410016
Status: Excess
Reason: Secured Area
Bldgs. CPP682, CPP693
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410017
Status: Excess
Reason: Secured Area
Bldgs. CPP695, CPP702
Idaho Natl Eng & Env Lab
Scoville CO: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410018
Status: Excess
Reason: Secured Area
Bldgs. CPP710, CPP712
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410019
Status: Excess
Reason: Secured Area
Bldg. CPP743
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410020
Status: Excess
Reason: Secured Area
Bldgs. CPP1616, CPP1630
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410021
Status: Excess
Reason: Secured Area
Bldgs. CPP1647, CPP1653
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410022
Status: Excess
Reason: Secured Area
Bldg. CPP1677
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410023
Status: Excess
Reason: Secured Area
Bldgs. TAN640, TAN641
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410024
Status: Excess
Reason: Secured Area
Bldgs. TAN642, TAN644
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410025
Status: Excess
Reason: Secured Area
Bldgs. TAN645, TAN646
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410026
Status: Excess
Reason: Secured Area
Bldgs. TAN652, TAN728
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410027
Status: Excess
Reason: Secured Area
Bldg. TAN731
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410028
Status: Excess
Reason: Secured Area

Illinois

Storage Bldg
USCG Auxiliary Radio Site
Waukegan Co: Lakee IL 60085–
Landholding Agency: Coast Guard
Property Number: 88200410011
Status: Excess
Reason: Secured Area

Nevada

42 Bldgs.
Nellis Air Force Base
Tonopah Co: Nye NV 89049–
Location: 49–01, NM104, NM105, 03–35A–H, 03–35J–N, 03–36A–C, 03–36E–H, 03–36J–N, 03–36R, 03–37, 15036, 03–44A–D, 03–46, 03–47, 03–49, 03–88, 03–89, 03–90
Landholding Agency: Energy
Property Number: 41200410029
Status: Unutilized
Reason: Secured Area

[FR Doc. 04–5398 Filed 3–11–04; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4837–D—48]

Redelegation of Authority To the Departmental Enforcement Center Regarding Authority To Initiate Civil Money Penalty Actions Under Certain Civil Money Penalty Regulations and To Issue Notice of Violation of a Regulatory Agreement and Notice of Default of a Housing Assistance Payments Contract

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: HUD is publishing elsewhere in today's **Federal Register**, a notice that advises that the Assistant Secretary for Housing-Federal Housing Commissioner has redelegated to the General Counsel the authority to (1) issue a notice of violation under the terms of a regulatory agreement, (2) issue a notice of default under the terms of a section 8 housing assistance payments contract, and (3) take all actions permitted under 24 CFR 30.45, 30.36, and 30.68. This notice advises the public of a redelegation of that authority from the General Counsel to the Director of the HUD Departmental Enforcement Center (DEC) and, with respect to certain functions, concurrent redelegation to the Directors of the DEC Satellite Offices.

EFFECTIVE DATE: March 5, 2004.

FOR FURTHER INFORMATION CONTACT: Herbert L. Goldblatt, Assistant General Counsel, Office of Program Enforcement, Office of General Counsel, Department of Housing and Urban Development, Portals Building, Suite 200, 1250 Maryland Avenue, SW., Washington, DC 20024, telephone (202) 708–3856. This is not a toll free number. For persons with hearing or speech impairments, the number may be accessed by TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: In enforcing requirements of HUD's housing and section 8 housing assistance payments programs, the Department must from time to time notify owners that they are in violation of a regulatory agreement on a HUD multifamily housing project or property, or that they are in default of a housing assistance payments contract. This notice advises that the General Counsel is redelegating to the Director of the DEC and, concurrently, to the Director of the DEC Satellite Offices the authority to issue such notices.

This notice advises that the General Counsel is also redelegating to the Director of the DEC and, concurrently, to the Directors of the DEC Satellite Offices the authority to impose civil money penalties and take all other action under 24 CFR 30.45 and 30.68. Further, the General Counsel is redelegating authority to the Director of the DEC to impose civil money penalties and take all other action under 24 CFR 30.36.

Accordingly, the General Counsel hereby retains and redelegates authority as follows:

Section A. Redelegation of Authority to Director of DEC and Directors of DEC Satellite Offices: The Director of the DEC and the Directors of the DEC Satellite Offices are hereby redelegated authority to issue a notice of violation under the terms of a regulatory agreement and a notice of default under the terms of a section 8 housing assistance payments contract. Authority is redelegated to the Director of the DEC and the Directors of the DEC Satellite Offices to take all actions permitted under 24 CFR 30.45 and 30.68.

Section B. Redelegation of Authority to Director of DEC: Authority is redelegated to the Director of the DEC to take all actions permitted under 24 CFR 30.36.

Section C. Further Redelegation: The Director of the DEC and the Directors of the DEC Satellite Offices are not authorized to redelegate the authority described in Sections A and B.

Section D. Authority Excepted: The authority redelegated does not include authority to waive any regulations issued under the authority of the Assistant Secretary for Housing-Federal Housing Commissioner.

Section E. Revocation of Authority: The General Counsel may revoke the authority authorized herein, in whole or in part, at any time.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: March 5, 2004.

Richard A. Hauser,

General Counsel.

[FR Doc. 04–5603 Filed 3–11–04; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 4837–D–47]

Redelegation of Authority to the General Counsel Regarding Authority To Initiate Civil Money Penalty Actions Under Certain Civil Money Penalty Regulations and To Issue Notice of Violation of a Regulatory Agreement and Notice of Default of a Housing Assistance Payments Contract

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: On August 20, 2003, HUD's Assistant Secretary for Housing-Federal Housing Commissioner published a notice that redelegated certain authority to other HUD officials, including HUD's General Counsel. In this notice, the Assistant Secretary for Housing clarifies and supplements the authority redelegated to the General Counsel in the August 20, 2003, notice.

EFFECTIVE DATE: March 5, 2004.

FOR FURTHER INFORMATION CONTACT: Eliot C. Horowitz, Senior Advisor to the Assistant Secretary for Housing-Federal Housing Commissioner, Office of Housing, Department of Housing and Urban Development, Room 9110, 451 Seventh Street, SW., Washington, DC 20410, phone (202) 708–0614, extension 2125. This is not a toll free number. For persons with hearing or speech impairments, the number may be accessed by TYY calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: In administering HUD's housing and section 8 housing assistance payments programs, the Assistant Secretary for Housing-Federal Housing Commissioner has authority to issue a notice of violation of a regulatory agreement on a HUD multifamily housing project or property, and a notice of default of a housing assistance payments contract. The Assistant Secretary for Housing also has authority to impose civil money penalties for certain contractual violations and for violations of certain program requirements.

On August 20, 2003, the Assistant Secretary for Housing published a redelegation of authority (68 FR 50173–50174) that redelegated to HUD's General Counsel the authority to issue a notice of violation of a regulatory agreement and a notice of default of a housing assistance payments contract. The preamble to that redelegation of authority explained the process by which such notices are issued and described the consequences that may result when regulatory agreement violations and housing assistance payments contract defaults are not remedied. The August 20, 2003, notice also redelegated authority to the General Counsel to take all available actions under civil money penalty regulations at 24 CFR 30.45, 30.36, and 30.68.

Since the redelegation of authority was published on August 20, 2003, it was determined that certain language may have been better stated for clarity purposes to clearly reflect that the General Counsel has been redelegated authority described above. To clarify any ambiguity as to the nature of the authority that has been redelegated, the Assistant Secretary for Housing is issuing this redelegation. The authority redelegated to the General Counsel herein may be further redelegated.

Accordingly, the Assistant Secretary for Housing-Federal Housing Commissioner hereby retains and redelegates authority as follows:

Section A. Redelegation of Authority: Authority is redelegated to the General Counsel to issue a notice of violation under the terms of a regulatory agreement and a notice of default under the terms of a housing assistance payments contract. Authority is redelegated to the General Counsel to take all actions permitted under 24 CFR 30.45, 30.36, and 30.68.

Section B. Further Redelegation: The General Counsel is authorized to redelegate the authority described in Section A.

Section C. Authority Excepted: The authority redelegated does not include authority to waive any regulations issued under the authority of the Assistant Secretary for Housing-Federal Housing Commissioner.

Section D. Revocation of Authority: The Assistant Secretary for Housing-Federal Housing Commissioner may revoke the authority authorized herein, in whole or in part, at any time.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: March 5, 2004.

John C. Weicher,

Assistant Secretary-Federal Housing Commissioner.

[FR Doc. 04–5602 Filed 3–11–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1310–PB]

Notice of Public Meeting, Alaska Resource Advisory Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Alaska Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held April 29–30, 2004, at the BLM's Northern Field Office, located at 1150 University Avenue in Fairbanks, beginning at 8:30 a.m. The public comment period will begin at 1 p.m. April 29.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, Alaska State Office, 222 W. 7th Avenue #13, Anchorage, AK 99513. Telephone (907) 271–3322 or e-mail *tmcphers@ak.blm.gov.*

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Alaska. At this meeting, topics we plan to discuss include:

- Status of land use planning in Alaska.
- National Petroleum Reserve-Alaska (NPR–A) integrated activity plans.
- NPR–A Research and Monitoring Subcommittee.
- North Slope Science Initiative.
- Other topics the Council may raise.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allotted for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact BLM.

Dated: March 4, 2004.

Peter J. Ditton,

Associate State Director.

[FR Doc. 04–5617 Filed 3–11–04; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–BJ] ES–052120, Group No. 10, West Virginia

Eastern States: filing of plat of survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat of survey; West Virginia.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Eastern States Office, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the National Park Service.

The lands we surveyed are:

New River Gorge National River, Raleigh County, West Virginia

The plat of survey represents the dependent resurvey of a portion of the boundary of Tract Nos. 113–32, Parcels 1 and 2, 113–33, and 118–01 of the New River Gorge National River, Raleigh County, West Virginia, and was accepted March 4, 2004.

We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: March 4, 2004.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 04–5618 Filed 3–11–04; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Final Wyoming Oil and Texas Section 8(g) Natural Gas Royalty-In-Kind Pilot Reports

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of availability of oil and natural gas royalty-in-kind pilot reports.

SUMMARY: The MMS will post on MMS's Internet Home Page two reports. The first report evaluates oil sold in kind in Wyoming. The second report evaluates gas sold in kind through a pilot program undertaken by MMS and the State of Texas.

DATES: The Reports will be posted on the MMS's Internet Home Page on March 12, 2004.

ADDRESSES: The Reports will be posted on Minerals Revenue Management's Home Page at *http://www.mrm.mms.gov* under "What's New." The Reports may also be obtained by contacting Mr. Martin C. Grieshaber at the address in the **FURTHER INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For additional information concerning the Report, contact Mr. Martin C. Grieshaber, Minerals Management Service, MS 9200, P.O. Box 25165, Denver, CO 80225–0165; telephone number (303) 275–7118; fax (303) 275–7124; e-mail *Martin.Grieshaber@mms.gov.*

SUPPLEMENTARY INFORMATION: The MMS in conjunction with the State of Wyoming for oil and the State of Texas

for gas from section 8(g) leases in the Gulf of Mexico initiated the pilots as part of the continuing effort to follow through on the recommendations of the *Royalty-In-Kind Feasibility Study* published by MMS in 1997. Both reports have been previously released as drafts. The MMS received relatively few comments.

In Wyoming, the MMS coordinated with the State and began taking in kind and offering for sale oil from leases in the Big Horn and Powder River Basins in October 1998. The Report summarizes and analyzes the results of the first three 6-month sales. The Report includes an addendum responding to comments received concerning the indices used in the analysis.

The gas RIK pilot undertaken jointly by the State of Texas General Land Office and MMS, began in June 1999. The pilot included 13 of the 40 leases offshore Texas subject to section 8(g) of the OCS Lands Act. The Report summarizes and analyzes the results of the sales for the first 19 months—June 1999 through December 2000.

Many of the lessons learned during the Wyoming oil and the Texas 8(g) pilots have been carried over to the expansion of the gas RIK pilots to the entire Gulf of Mexico (GOM).

The internet posting and availability of the Report in hard copy are being announced by a press release as well as in this **Federal Register** notice.

Dated: March 1, 2004.

R. M. "Johnnie" Burton,

Director, Minerals Management Service.

[FR Doc. 04–5626 Filed 3–11–04; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1057 (Final)]

Certain Processed Hazelnuts From Turkey

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On February 19, 2004, the Commission received notice from the Department of Commerce stating that, having received a letter from petitioners in the subject investigation (Westnut LLC, Northwest Hazelnut Co., Hazelnut Growers of Oregon, Willamette Filbert Growers, Evergreen Orchards, and Evonuk Orchards) withdrawing their petition, Commerce was terminating its antidumping investigation on certain processed hazelnuts from Turkey. Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the subject investigation is terminated.

EFFECTIVE DATE: February 19, 2004.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.40 of the Commission's rules (19 CFR 207.40).

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–5594 Filed 3–11–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–421–5]

Uncovered Innerspring Units from China

Determination

On the basis of information developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 421(b)(1) of the Trade Act of 1974,[1] that uncovered innerspring units[2] from the People's Republic of China are not being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

Background

Following receipt of a petition filed on January 6, 2004, on behalf of the American Innerspring Manufacturers (AIM),[3] Memphis, TN, the Commission instituted investigation No. TA–421–5, Uncovered Innerspring Units From China, under section 421 of the Trade Act of 1974 to determine whether uncovered innerspring units from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

Notice of the institution of the Commission's investigation and of the scheduling of a public hearing to be held in connection therewith was given by posting a copy of the notice on the Commission's Web site (*http://www.usitc.gov*) and by publishing the notice in the **Federal Register** (69 FR 2002, January 13, 2004). The hearing was held on February 19, 2004, in Washington, DC and all persons who requested the opportunity were permitted to appear in person or by counsel.

Issued: March 8, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–5630 Filed 3–11–04; 8:45 am]

BILLING CODE 7020–02–P

[1] 19 U.S.C. 2451(b)(1).

[2] For purposes of this investigation, the product subject to this investigation is uncovered innerspring units composed of a series of individual metal springs wired together and fitted to an outer wire frame, suitable for use as the innerspring component in the manufacture of innerspring mattresses. Included within this definition are innersprings typically ranging from 34 inches to 76 inches in width and 71 inches to 84 inches in length, corresponding to the sizes of adult mattresses (twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. The subject product is properly imported under statistical reporting number 9404.29.9010 of the Harmonized Tariff Schedule of the United States (HTS). Not included in the scope of the petition are "pocket" coils, which are individual coils covered by a "pocket" or "sock" of a nonwoven synthetic material and then glued together in a linear fashion.

[3] Petitioning firms include Atlas Spring Manufacturing, Gardena, CA; Hickory Springs Manufacturing Co., Hickory, NC; Leggett & Platt, Carthage, MO; and Joseph Saval Spring & Wire Co., Inc., Taylor, MI.

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,084]

Eaton Corporation, Watertown, WI; Notice of Negative Determination Regarding Application for Reconsideration

By application of December 19, 2003, a petitioner requested administrative reconsideration of the Department's

negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was published in the **Federal Register** on December 29, 2003 (68 FR 74977).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Eaton Corporation, Watertown, Wisconsin engaged in the production of printed circuit boards, was denied because criteria I.C and II.B and the "contributed importantly" group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, were not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. It was revealed that printed circuit boards produced by the subject firm are used internally within the Eaton Corporation. The survey of affiliated plants which receive the vast majority of the subject firm's products revealed no imports of like or directly competitive products. The subject firm has not shifted production of printed circuit boards abroad during the relevant period.

The petitioner alleges that the company shifted several production lines abroad. In particular, the petitioner alleges that while the printed circuit boards are processed at the subject firm, the final assembly of arc fault circuit breaker is completed at a plant in Mexico.

A company official was contacted in regard to these allegations. The official clarified that the automation process of production of arc fault circuit breakers was and is currently done by Eaton Corporation in Watertown, Wisconsin, while the manual assembly work has always been performed in Mexico and never in Watertown, Wisconsin. There never was a shift of arc fault circuit breaker production from the subject facility abroad.

The petitioner also alleges that there was a shift in the final assembly of Westinghouse products from the subject firm to Canada in the relevant period.

The official stated that the final assembly for the Westinghouse electronic assembly line was transferred to Pittsburgh, Pennsylvania in 1996–1997. This process stayed in Pittsburgh for approximately three years and then was moved to Calgary, Canada.

Finally, the petitioner alleges that the production of truck, which represented about one-third of the production of the Watertown facility, went to Motorola and possibly abroad.

The official reported that in 2000, the truck printed circuit board business was requoted and was removed from the Watertown, Wisconsin location. Motorola was awarded the business, and manufactured this product in the USA (Texas). It was revealed that Watertown facility has the same amount of printed circuit board business as it had in 2000. Finally, the official confirmed directly that there was no shift in production from the subject firm to any facility abroad in the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 25th day of February, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5613 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,323]

Franklin Electric Company, Inc., Motor Components Division, Jonesboro, IN; Notice of Revised Determination on Reconsideration

By application of December 24, 2003, a petitioner requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on November 18, 2003, based on the finding that imports of lead wire did not contribute importantly to worker separations at the subject plant and that a shift in production of motors from the subject facility to Mexico has not affected employment of workers at the subject firm. The denial notice was published in the **Federal Register** on December 29, 2003 (68 FR 74978).

To support the request for reconsideration, the petitioner supplied additional information to supplement that which was gathered during the initial investigation. Upon further review and contact with a company official, it was revealed that the workers at the subject facility are engaged in the production of electric motors and electric wires and they are not separately identifiable by the product line. It was also revealed that the subject firm shifted its production of electric motors to Mexico during the relevant period and is currently implementing a shift in production of electric wires to Mexico. There was a significant decline in employment during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I determine that there was a shift in production from the workers' firm or subdivision to Mexico of articles that are like or directly competitive with those produced by the subject firm or subdivision, and there has been or is likely to be an increase in imports of like or directly competitive articles. In accordance with the provisions of the Act, I make the following certification:

All workers of Franklin Electric Company, Inc., Motor Components Division, Jonesboro, Indiana who became totally or partially separated from employment on or after October 16, 2002 through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 25th day of February 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5610 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,156]

Haimode Apparel, Incorporated, a Division of Kellwood Company, Roanoke, Virginia; Notice of Revised Determination on Reconsideration

On January 12, 2004, the petitioner requested administrative review of the

Department's negative determination regarding workers and former workers of the subject firm. The negative determination was issued on November 17, 2003 and published in the **Federal Register** on December 29, 2003 (68 FR 74977).

The initial determination stated that the subject worker group is engaged in the production of markers, that the subject company shifted marker production to a country not under a free trade agreement with the United States of America, and that the subject company was not importing markers.

On review of new information by the petitioner and careful review of information previously submitted by the company, it has been determined that the subject worker group was engaged in the production of dresses, that dress production shifted abroad, and that the subject company began importing dresses shortly after the shift occurred.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at the subject firm, following a shift of production abroad, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Halmode Apparel, Incorporated, A Division of Kellwood Company, Roanoke, Virginia, who became totally or partially separated from employment on or after September 30, 2002, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 5th day of March 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5611 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,486]

Stanley Services Employed by Harriet & Henderson Yarns, Inc., Henderson, NC; Notice of Revised Determination on Reconsideration

By application of December 29, 2003, a petitioner requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on November 25, 2003, based on the finding that the petitioning workers did not produce an article within the meaning of Section 222 of the Act. The denial notice was published in the **Federal Register** on December 29, 2003 (68 FR 74977).

To support the request for reconsideration, the petitioner supplied additional information to supplement that which was gathered during the initial investigation. Upon further review, including an examination of the new materials provided by the petitioner and a contact with the company official, it was established that the petitioning workers performed janitorial cleaning services on the contractual basis onsite at Harriet & Henderson Yarns, Harriet Plant #2, Henderson, North Carolina. The workers of Harriet & Henderson Yarns, Harriet Plant #2, Henderson, North Carolina (TA–W–52,663) were certified eligible to apply for Trade Adjustment Assistance (TAA) on September 25, 2003.

Conclusion

After careful review of the facts obtained in the investigation, I determine that workers of Stanley Services, engaged in janitorial cleaning services at Harriet & Henderson Yarns, Henderson, North Carolina qualify as adversely affected leased workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

All workers of Stanley Services, employed by Harriet & Henderson Yarns, Henderson, North Carolina, who became totally or partially separated from employment on or after November 4, 2002 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 27th day of February 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5607 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,008]

Martens Manufacturing, LLC, Kingsford, MI; Notice of Negative Determination on Reconsideration

On December 4, 2003, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on December 29, 2003 (68 FR 74976).

The Department initially denied workers of Martens Manufacturing, LLC, Kingsford, Michigan because the investigation revealed no sales or employment declines and no increased subject company imports during the period of employment decline at the subject company.

The petitioners allege in the request for reconsideration that the subject company's customer increased import purchases during the period of decline at the subject company.

The Department conducted a survey of the subject company's major customers regarding import purchases of cabinet components during the relevant time periods. The customers accounted for the vast majority of the company's sales. The survey revealed no imports during the relevant time period.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Martens Manufacturing, LLC, Kingsford, Michigan.

Signed at Washington, DC, this 27th day of February 2004

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5614 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,146]

Metalforming Technologies/Northern Tube, Pinconning, MI; Notice of Revised Determination on Reconsideration

By letter dated January 23, 2004, the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America—UAW, requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on November 12, 2003. The Department initially denied TAA to workers of Metalforming Technologies/Northern Tube, Pinconning, Michigan producing fabricated metal tubing because the "contributed importantly" group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, was not met. The notice was published in the **Federal Register** on December 29, 2003 (68 FR 74977).

In the request for reconsideration, the petitioner indicated that the subject firm should be considered on the basis of a secondary upstream supplier impact. Upon further review, it was revealed that the Department erred in its initial investigation, as secondary impact was indicated on the petition.

Having conducted an investigation of subject firm workers on the basis of secondary impact, it was revealed that Metalforming Technologies/Northern Tube, Pinconning, Michigan supplied component parts for class 8 trucks, and a loss of business with a manufacturer (whose workers were certified eligible to apply for adjustment assistance) contributed importantly to the workers separation or threat of separation.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained in the investigation, I determine that workers of Metalforming Technologies/Northern Tube, Pinconning, Michigan qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

All workers of Metalforming Technologies/Northern Tube, Pinconning, Michigan who became totally or partially separated from employment on or after September 26, 2002 through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of March 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5612 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,043]

Ramseur Interlock Knitting Company, Inc., Ramseur, NC; Notice of Revised Determination On Reopening

On February 26, 2004, the Department, on its own motion, reopened its investigation for the former workers of the subject firm.

The initial investigation was initiated on January 20, 2004, and resulted in a negative determination issued on February 11, 2004. The investigation findings showed that the company did not shift production to a foreign country, nor did the company or customers increase imports of knitted apparel fabrics. Consequently, the Department issued a negative determination of eligibility to apply for trade adjustment assistance (TAA) and alternative trade adjustment assistance (ATAA). The notice was signed on February 11, 2004, and will soon be published in the **Federal Register.**

The Department has obtained new information showing that the subject firm lost a significant amount of business with apparel manufacturers whose workers were certified eligible for TAA, and the loss of business contributed importantly to worker separations at the Ramseur, North Carolina plant.

Furthermore, the Department has determined in this case that the requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful consideration of the facts obtained on reopening, I determine that workers of Ramseur Interlock Knitting Company, Inc., Ramseur, North Carolina, qualify as adversely affected secondary workers under section 222 of the Trade Act of 1974.

In accordance with the provisions of the Act, I make the following revised determination:

All workers of Ramseur Interlock Knitting Company, Inc., Ramseur, North Carolina, who became totally or partially separated from employment on or after January 15, 2003, through two years from the date of certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 27th day of February 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5606 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a pubic hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 22, 2004.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 22, 2004.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311,ESHGO 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 5th day of March 2004.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted Between 02/09/2004 and 02/13/2004

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
54,198	Rockwell Automation (Wkrs)	Dublin, GA	02/09/2004	02/03/2004
54,199	Kincaid Furniture Co., Inc. (Comp)	Hudson, NC	02/09/2004	01/09/2004
54,200	Sanmina-SCI Corp. (IUE)	Richardson, TX	02/09/2004	02/04/2004
54,201	Avent, Inc. (Comp)	Ft. Worth, TX	02/09/2004	02/02/2004
54,202	Finishes First, Inc. (Comp)	Spruce Pine, NC	02/09/2004	02/04/2004
54,203	Coats American, Inc. (Comp)	Charlotte, NC	02/09/2004	02/03/2004
54,204	Missouri Steel Castings (IB)	Joplin, MO	02/09/2004	02/05/2004
54,205	Westling Manufacturing Co. (MN)	Princeton, MN	02/09/2004	02/03/2004
54,206	Baker Process/Bird Machine (Comp)	S. Walpole, MA	02/09/2004	01/28/2004
54,207	Irwin Industrial Tool (Comp)	Wilmington, OH	02/09/2004	02/05/2004
54,208	Davidson Industries, Inc. (Comp)	Mapleton, OR	02/09/2004	02/05/2004
54,209	Waterloo Industries, Inc. (Comp)	Muskogee, OK	02/09/2004	02/04/2004
54,210	Flynt Fabrics, Inc. (Wkrs)	Graham, NC	02/09/2004	02/05/2004
54,211	Intercraft Company, Inc. (Wkrs)	Taylor, TX	02/09/2004	02/01/2004
54,212	Timken (Comp)	Pulaski, TN	02/09/2004	01/27/2004
54,213	Broad Street Branded Warehouse, Inc. (Comp).	Gastonia, NC	02/09/2004	12/17/2003
54,214	Electronic Data Systems (CA)	Concord, CA	02/09/2004	01/25/2004
54,215	Taylor Togs, Inc. (Comp)	Bakersville, NC	02/09/2004	02/04/2004
54,216	Keystone Consolidated Ind., Inc. (Comp)	Peoria, IL	02/09/2004	02/04/2004
54,217	J.S. Technos Corp./Robert Bosch (Comp)	Russellville, KY	02/10/2004	02/05/2004
54,218	Phelps Dodge Industries (Comp)	El Paso, TX	02/10/2004	02/06/2004
54,219	Morse Automotive (Comp)	Cartersville, GA	02/10/2004	02/06/2004
54,220	National Textiles (Comp)	Galax, VA	02/10/2004	02/05/2004
54,221	Greif, Inc. (Comp)	Kingsport, TN	02/10/2004	02/09/2004
54,222	Rohm and Haas Co. (Wkrs)	Elma, WA	02/10/2004	02/03/2004
54,223	Ultra Tool (Comp)	Grantsburg, WI	02/10/2004	02/09/2004
54,224	Consolidated Ventura Telephones (AZ)	Tucson, AZ	02/10/2004	02/06/2004
54,225	Pradco Outdoor Brand (AR)	Hot Springs, AR	02/10/2004	02/04/2004
54,226	Plastic Research (AR)	Mulberry, AR	02/10/2004	02/04/2004
54,227	Glenshaw Glass Co. (CCS)	Glenshaw, PA	02/10/2004	02/02/2004
54,228	Bangor Hydro Electric Co. (ME)	Bangor, ME	02/11/2004	01/15/2004
54,229	Deluxe Global Media Services (CA)	Ontario, CA	02/11/2004	01/29/2004
54,230	Henlopen Mfg. (Comp)	Melville, NY	02/11/2004	01/23/2004
54,231	411 Warehouse Corp. (Comp)	Madisonville, TN	02/11/2004	01/23/2004
54,232	R and R Hosiery Partner (Comp)	Rainsville, AL	02/11/2004	01/22/2004
54,233	Marko Foam Products, Inc. (Comp)	Corona, CA	02/11/2004	01/28/2004
54,234	BASF Corp. (Wkrs)	Morganton, NC	02/11/2004	01/30/2004
54,235	Electronic Data Systems (Wkrs)	Kokomo, IN	02/11/2004	01/29/2004
54,236	Motion Industries, Inc. (Wkrs)	Altoona, PA	02/11/2004	02/09/2004
54,237	Steelcase, Inc. (Comp)	Fletcher, NC	02/11/2004	02/06/2004
54,238	Saylor Industries (Wkrs)	Johnstown, PA	02/11/2004	02/04/2004
54,239	Heartland Rig International (Wkrs)	Brady, TX	02/11/2004	02/09/2004
54,240	Litchfield Fabrics of NC (Comp)	Gastonia, NC	02/11/2004	02/04/2004
54,241	Siemens Dematic (MI)	Grand Rapids, MI	02/11/2004	02/10/2004
54,242	Badger Paper Mill (Wkrs)	Peshtigo, WI	02/11/2004	02/09/2004
54,243	Tateishi of America, Inc. (Wkrs)	Pineville, NC	02/11/2004	01/23/2004
54,244	Southland Hosiery Co. (Wkrs)	Thomasville, NC	02/11/2004	02/04/2004
54,245	S and D Hosiery (Wkrs)	Locust, NC	02/11/2004	02/05/2004
54,246	Assurance Manufacturing, Inc. (MN)	Minneapolis, MN	02/12/2004	02/11/2004
54,247	Stitches Manufacturing, Inc. (Comp)	Huntingdon Vly., PA	02/12/2004	01/30/2004
54,248	KS Bearings, Inc. (UAW)	Greensburg, IN	02/12/2004	02/12/2004
54,249	VF Jeanswear Ltd. Partnership (Comp)	Irvington, AL	02/12/2004	02/12/2004
54,250	Valeo, Inc. (Comp)	Hampton, VA	02/12/2004	01/30/2004

APPENDIX—Continued

[Petitions Instituted Between 02/09/2004 and 02/13/2004

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
54,251	Chatham and Borgstena (Comp)	Mt. Airy, NC	02/12/2004	01/30/2004
54,252	Central Coating and Assembly (Comp)	Mt. Pleasant, MI	02/12/2004	02/10/2004
54,253	Nixon Gear (NY)	Syracuse, NY	02/12/2004	01/30/2004
54,254	Newstech NY, Inc. (Comp)	Deferiet, NY	02/12/2004	02/11/2004
54,255	Imperial Schrade Corp. (NY)	Ellenville, NY	02/12/2004	02/02/2004
54,256	Aastra Telecom (Wkrs)	Lynchburg, VA	02/12/2004	02/06/2004
54,257	MCS Industries, Inc. (Comp)	Easton, PA	02/12/2004	02/10/2004
54,258	Just-A-Stretch of RI, Inc. (Wkrs)	Hope, RI	02/12/2004	02/11/2004
54,259	Leviton Mfg. (Comp)	Tualatin, OR	02/13/2004	02/02/2004
54,260	New Era Die Co. (Wkrs)	Red Lion, PA	02/13/2004	02/12/2004
54,261	Alkahn Labels (Wkrs)	Cochran, GA	02/13/2004	02/12/2004
54,262	Fluidmaster, Inc. (Comp)	San Juan Cap., CA	02/13/2004	02/02/2004

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the periods of January and February 2004.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign county of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA–W–53,911; Scripto-Tokai Corp., Rancho Cucamonga, CA

TA–W–53,894; Mediacopy Texas, Inc., including leased workers of Adecco and CK Staffing, a subsidiary of Infodisc, El Paso, TX

TA–W–53,980; Backsplash, White Salmon, WA

TA–W–53,964; Merit Knitting Mills, Glendale, NY

TA–W–53,922; K and R Products, Inc., Santa Cruz, CA

TA–W–53,880; Smurfit-Stone Container Corp., Philadelphia Mill, Philadelphia, PA

TA–W–53,856; Rock-Tenn Co., El Paso Facility, El Paso, TX

TA–W–53,768; Kurtz-Hastings, Inc., Philadelphia, PA

TA–W–53,846; Danly IEM, Cleveland, OH

TA–W–53,895; Flexcon Co., Inc., Spencer, MA

TA–W–53,786; Caratron Industries, Inc., Warren, MI
TA–W–53,896; Hog Slat, Inc., Newton Grove, NC
TA–W–53,849; Smurfit-Stone Container Corp., Seminole Plant, Jacksonville, FL
TA–W–54,007; B&W Corp., d/b/a M&M Industries, Bensenville, IL
TA–W–53,939; Tippins, Inc., Pittsburgh, PA
TA–W–54,012; Perry Judd's, Waterloo, WI
TA–W–53,898; Timken U.S. Corp., formerly known as The Torrington Company, Torrington, CT
TA–W–54,176; Malamute Enterprises, Inc., Fishing Vessel (F/V) Malamute Kid, Homer, AK
TA–W–53,978; Academy Die Casting and Plating Co., Inc., Edison, NJ
TA–W–53,664; Owens-Illinois, Inc., Hayward, CA
TA–W–53,845; Rohn Industries, Inc., Rohn Products Div., Frankfort, IN
TA–W–53,585; Sealed Air Corp., Salem, IL
TA–W–53,973; Warner Electric, Inc., a subsidiary of Colfax Corp., Roscoe, IL
TA–W–53,548; Comet Tools Co., Inc., Injection Molding Department, Pitman, NJ
TA–W–53,734; Arvin Meritor, Franklin Plant, Franklin, IN
TA–W–53,798; Mohican Mills, Inc., Lincolnton, NC
TA–W–53,825; Georgia-Pacific Resins, Inc., Chemical Div., White City, OR
TA–W–53,832; Morrill Motors, Inc., Sneedville Plant, Sneedville, TN
TA–W–53,851; Collins and Aikman, Adrian Operations, Dura Div., Adrian, MI
TA–W–53,702; Snap On Manufacturing Co, Kenosha, WI
TA–W–53,790; Snap-Tite, Inc., Autoclave Engineers Div., Erie, PA
TA–W–53,826 & A; Flex-N-Gate LLC, Warren Stamping Plant 1, Warren, MI and Plant 2, Warren, MI
TA–W–53,834; Snap-On Tools, Inc. Mt. Carmel Plant, Mt. Carmel, IL

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–54,175; Andrew Corp., Warren, NJ
TA–W–54,156; Rocky Shoes and Boots, Inc., Engineering Support, Nelsonville, OH
TA–W–54,086; Loislaw.com, Inc., Van Buren, AR
TA–W–53,965; Sangamon, Inc., Taylorsville, IL
TA–W–53,931; SCI Funeral & Cemetery Purchasing Cooperative, Houston, TX
TA–W–53,861; Franklin Mint Co., d/b/a The Franklin Mint, Franklin Center, PA
TA–W–53,918; BMC Software, Inc., Houston, TX
TA–W–53,943; Teletech Holdings, Inc., Uniontown, PA
TA–W–53,820; Riverdeep, Inc., Novato, CA
TA–W–54,074; Earthlink, Inc., Harrisburg, PA
TA–W–54,024; Milford Marketing, Inc., Franklin, MI
TA–W–53,959; Bayer AG, Bayer Polymers, LLC, Research and Development Facility, Pittsburgh, PA
TA–W–54,041 & A; Epson America, Inc., Long Beach, CA and Carson, CA
TA–W–54,057; Agilent Technologies, Automated Test Group (ATG), Customer Team Business Center, Support Agreements Team, Englewood, CO
TA–W–54,080; Accenture LLP, Oaks, PA
TA–W–54,214; Electronic Data Systems Corp., Concord, CA
TA–W–54,113; Dormer Tools, Asheville, NC
TA–W–54,131; Applied Micro Circuits Corp., AMCC Interconnect, Fort Collins, CO
TA–W–54,192; NCR Corp., Teradata Global Support Center, San Diego, CA
TA–W–53,844; Hein Werner Division of Equipment Services, Inc., a subsidiary of Snap-On, Inc., Waukeha, WI
TA–W–53,936; Analytical Survey, Inc., San Antonio, TX
TA–W–54,119; Micro Warehouse, Inc., a subsidiary of Bridgeport Holdings, Inc., Lakewood, NJ
TA–W–53,948; Seagate Technology, LLC, Research and Development Div., Oklahoma City, OK
TA–W–53,961; SimplexGrinnell L.P., d/b/a Tyco Safety Products, Westlake, OH

The investigation revealed that criterion (a)(2)(A)(I.A) (no employment decline) has not been met.

TA–W–54,006; American Safety Razor Co., Verona, VA
TA–W–54,141; Tyco Healthcare Kendall, a subsidiary of Tyco International, LLC, including leased workers at Keena Staffing Co., Argyle, NY
TA–W–53,864; Lu-Mac, Inc., Ford City, PA
TA–W–54,048C; West Point Stevens, Fairfax Facility, Bath Products Div., Valley, AL

The investigation revealed that criteria (a)(2)(A)(I.B) (Sales or production, or both, did not decline) and (a)(2)(A)(II.A) (no employment decline) has not been met.

TA–W–53,669; Interconnect Technologies, a div. of Northrop-Grumman, Springfield, MO

The investigation revealed that criteria (a)(2)(A)(I.B) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B) (has shifted production to a country not under the free trade agreement with U.S.) have not been met.

TA–W–53,954; Sappi Fine Paper, Somerset Operations, a/k/a Hinckley Mill, Skowhegan, ME
TA–W–53,897; Louisiana Pacific Corp., Deer Lodge, MT

The investigation revealed that criteria (a)(2)(A)(I.B) (Sales or production, or both, did not decline) and (a) (2)(B)(II.C) (has shifted production to a foreign country) have not been met.

TA–W–54,039; Ehlert Tool Co., New Berlin, WI

The investigation revealed that criteria (a)(2)(A)(I.C) (increased imports) and (a) (2)(B)(II.C) (has shifted production to a foreign country) have not been met.

TA–W–54,043; Ramseur Interlock Knitting Co., Inc., Ramseur, NC

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA–W–53,910; American Standard, Inc., Americas Bath & Kitchen, Tiffin, OH: December 19, 2002.
TA–W–53,644; Hussey Copper Ltd, Kenilworth, NJ: November 20, 2002.
TA–W–54,137; Dan River, Inc., Camellia Plant, Juliette, GA: January 20, 2003.
TA–W–53,953; Cooper Standard Automotive, North American Sealing Systems, Griffin, GA: January 6, 2003.
TA–W–54,026; Central Textiles, Inc., Pickens, SC: January 7, 2003.
TA–W–53,779; National Mills, Inc., Pittsburg, KS:

"All workers engaged in the production of screen-printed tee shirts, who became totally or partially separated from employment on or after December 8, 2002 are eligible for adjustment assistance under Section 223.

TA–W–53,976; Coda Resources, Ltd, formerly Central Notion Company,

Inc., Fieldstone Div., Providence, RI: December 31, 2002.
TA–W–53,869; Florida Tile Industries, Lakeland, FL: December 19, 2002.
TA–W–53,806; Bostik Findley, Inc., Clarks Summit, PA: December 1, 2002.
TA–W–53,912; AK Steel, Butler, PA: December 31, 2002. S.A.S.I. Corporation, d/b/a Bridal Originals, Sparta Manufacturing Plant, Sparta, IL: January 8, 2003
TA–W–53,860; Ewing and Webster Investments d/b/a U2 Technology, Inc., Wasilla, AK: December 1, 2002.
TA–W–53,739; Kentucky Derby Hosiery, Plant #5, Mt. Airy, NC: December 1, 2002
TA–W–54,210; Flynt Fabrics, Inc., Graham, NC: August 9, 2003.
TA–W–54,009; Oxford Drapery, Inc., Timmonsville, SC: January 12, 2003.
TA–W–53,876; Schlegel Systems, Inc., a div. of The Unipoly Holding Co., Rochester, NY: December 15, 2002.
TA–W–53,986; Retango West, Inc., Brooklyn, NY: January 6, 2003.
TA–W–53,763; Chipsco, Inc., Meadville, PA: November 18, 2002.
TA–W–53,808; GMJ Wood Products, including leased workers of Nicolet Temporary Services, Kingsford, MI
TA–W–53,883; H&J Leather, Johnstown, NY: December 15, 2002.
TA–W–53,881; Tillotson Rubber Co., Inc. a wholly owned subsidiary of Tillotson Corp., including leased workers of Pomerantz Staffing Services, Agentry Staffing services, and Mercury Temporary Services, Inc., Fall River, MA: December 8, 2002.
TA–W–53,941; Murata Electronics North America, Inc., State College, PA: January 6, 2003.
TA–W–53,714; Facemate Corp., Chicopee, MA: December 1, 2002.
TA–W–53,732; Container Stapling Co., a/k/a ISM Fastening Systems, a wholly owned subsidiary of International Staple and Machine Company, including leased workers of Extra Help, Herrin, IL: December 3, 2002.
TA–W–53,969; Flint River Textiles, Inc., Albany, GA: January 7, 2003.
TA–W–53,971; Bailey Manufacturing Corp., S.J. Bailey and Sons, Inc., Fryeburg, ME: December 22, 2002.
TA–W–53,960; Waukesha Kramer, Inc., Milwaukee, WI: January 7, 2003.
TA–W–53,528; Textron Fastening Systems, Ferndale Fastener Div., Madison Heights, MI: November 11, 2002.
TA–W–53,987; Air Products and Chemicals, Inc., including leased workers of Shaw Maintenance, Inc., Pace, FL: January 12, 2003.
TA–W–53,967; Osram Sylvania, Inc., Materials Div., Warren, PA: December 30, 2002.
TA–W–54,126; American Fast Print Ltd, U.S. Finishing Div., a subsidiary of Atlantex Ltd, Greenville, SC: January 28, 2003.
TA–W–53,968; FMC Corp., Active Oxidants Div., Tonawanda, NY: December 22, 2002.
TA–W–53,966; Wellington Leisure Products, Leesville Synthetic Fibers, Leesville, SC: December 31, 2002.
TA–W–53,982; Bassett Furniture Industries, Inc, Upholstery Div., Hiddenite, Hiddenite, NC
TA–W–53,854 & A; Warnaco Group, Inc., Milford, CT and Stratford, CT: December 18, 2002.
TA–W–53,878 & NVF Company, Yorklyn, DE and Kennett Square, PA: December 16, 2002.
TA–W–54,188; Ispat Inland, Inc., Chicago, IL: February 3, 2003.
TA–W–53,744; Lands' End, Inc., a subsidiary of Sears, Roebuck and Co., Dodgeville Facility, Dodgeville, WI and Elakder Facility, Elakder Facility and West Union Facility, West Union, IA: November 25, 2002.
TA–W–53,870; Hoffman-La Roche, Inc., Chemical Operations Department, Nutley, NJ: December 22, 2002.
TA–W–53,793; Keeler Brass Co., including leased workers of Talent Tree, Inc., Grand Rapids, MI: December 2, 2002.
TA–W–53,863; Meadow River Enterprises, Metal Fabrication Div., Lewisburg, WV: December 15, 2002.
TA–W–53,827; Bridgestone/Firestone Off-Road Tires, Bloomington, IL: September 11, 2003
TA–W–53,906 & Dixie Chips, Inc., Evergreen, AL and Brundidge, AL: December 29, 2002.
TA–W–53,884; S.J. Bailey and Sons, Inc., Carbondale Plant, Carbondale, PA: December 17, 2002.
TA–W–53,915; First Source Furniture Group, Regional Support Center, a subsidiary of Haworth, Inc., Nashville, TN: December 26, 2002.
TA–W–53,926; Shuler Brothers Chip Mill, Opp, AL: December 29, 2002.
TA–W–54,030; Interstate Industries of Mississippi, LLC, Kosciusko, MS: January 15, 2003.
TA–W–54,048 & A & West Point Stevens, Dunson Facility, Bed Products Div., LaGrange, GA, Lanier Facility, Bed Products Div., Valley, AL and Dixie Facility, Bath Products Div., LaGrange, GA: January 15, 2003

The following certifications have been issued. The requirements of (a) (2) (B) (shift in production) of Section 222 have been met.

TA–W–53,270; C & L Manufacturing Co., Hays, NC: October 16, 2002.
TA–W–53,843; Diversified Dynamics Corp., Home Right Div., Blaine, MN: December 17, 2002.
TA–W–53,865; American Standard, Inc., Porcher Div., Chandler, AZ: December 17, 2002.
TA–W–53,974 & A; General Chemical Corp., Delaware Valley Works, Process Additives Div. and Sulfuric Acid Div., Wilmington, DE: January 8, 2003.
TA–W–53,519; Field Container Co. L.P., St. Clair Pakwell Div., Bellwood, IL: November 10, 2002.
TA–W–54,123; Bard Endoscopic Technologies, Mentor, OH: January 27, 2003
TA–W–53,603; Carrier Corp., Syracuse, NY: November 14, 2002.
TA–W–53,873; Olympic West Sportswear, Inc., a div. of Cascade West Sportswear, Inc., Puyallup, WA: December 22, 2002.
TA–W–53,804; Keef Hosiery, Ft. Payne, AL: December 10, 2002.
TA–W–53,823; Real Wood of Virginia, Inc., d/b/a Cooper Wood Products,including leased workers of Ameristaff, Rocky Mount, VA: December 27, 2003.
TA–W–53,769; Textron Fastening Systems, a subsidiary of Textron, Inc., Greensburg, IN: December 9, 2002.
TA–W–53,796; Sandvik Mining and Tunneling, LLC, Bolt, WV: December 12, 2002.
TA–W–53,562; Weyerhaeuser, Longview Fine Paper, Longview, WA: November 13, 2002.
TA–W–53,693; Tyco Electronics Corp., Global Industrial and Commercial Business, General Purpose Relay Business Unit, Guttenberg, IA: November 25, 2002.
TA–W–53,885; NTN-BCA Corp., a wholly owned subsidiary of NTN-USA, Greensburg, IN: December 23, 2002.
TA–W–53,821; Parker Hannifin Corp., Hose Products Div., Green Camp, OH: December 16, 2002.
TA–W–53,857; Parkdale America, LLC, Plant #7, Caroleen, NC: December 12, 2002.
TA–W–53,867; Froedtert Malt Co., Inc., West Plant, Milwaukee, WI: December 19, 2002.
TA–W–53,887; Regal Beloit Corp., Motor Technologies Group, Leeson Electric, Grafton, WI: December 23, 2002.
TA–W–53,925; Avery Dennison, Office Products Group, and leased workers

of Adecco, Flowery Branch, GA: December 30, 2002.

TA–W–53,945; Basf Corp., Coatings Div., Belvidere, NJ: January 5, 2003.

TA–W–53,952; Pass & Seymour/ Legrand, San Antonio, TX: January 5, 2003.

TA–W–53,760; Parker Hannifin Corp., Composite Sealing Systems Div., Tempe, AZ.

TA–W–53,729; Adhesive Technologies, Inc., Hampton, NH: November 24, 2002.

TA–W–53,601; Paxar-Alkahn, formerly Alkahn Labels, Inc., Pentex Div., Cowpens, SC: November 20, 2002.

TA–W–53,695; Continental Teves, a div. of Continental Automotive Systems North America, a div. of Continental Automotive Systems, a div. of Continental AG, Ashville, NC: November 20, 2002.

TA–W–53,818; Gross National Product, LLC, Elmhurst, NY: December 16, 2002.

TA–W–53,805; Encompass Group, LLC, Clio, AL: December 12, 2002.

TA–W–53,767; Vermilion Rubber Technology, a div. of The Fukoku Corp., Window Coupling and Anti-Vibration Device Lines, Danville, IL: December 1, 2002.

TA–W–53,935; Hiddenite Woodworks, Inc., Hiddenite, NC: December 26, 2002.

TA–W–54,135; Winterquest, LLC, Grand Junction, CO: January 21, 2003.

TA–W–54,010; Tri-Molded Plastics, Inc., a div. of Applied Technical Products, Bay Shore, NY: December 6, 2002.

TA–W–54,050; A.O. Smith, Electrical Products Co., a div. of A.O. Smith Corp., including leased workers of Randstad and Remedy Staffing, LaVergne, TN: Juanry 19, 2003.

TA–W–54,157; Marco Apparel, d/b/a Margrove, Inc., Walnut Grove, MS: February 3, 2003.

TA–W–53,997; Hollister, Inc., Kirksville Manufacturing, Kirksville, MO: January 7, 2003.

TA–W–54,110; Atlantic Metals Corp., d/b/a Natco International, Philadelphia, PA: January 23, 2003.

TA–W–53,807; Permabond International, a div. of National Starch and Chemicals, including leased workers of J&J Temporaries, Bridgewater, NJ: December 15, 2002.

TA–W–53,803; Fliscinkim, Inc., Fort Payne, AL: December 8, 2002.

TA–W–53,930; Medcases, Inc., Philadelphia, PA: December 29, 2002.

TA–W–53,824; J and T Trading Co., Charlotte, NC: December 16, 2002.

TA–W–53,921; Pac-Tec, Inc., d/b/a Ray-O-Lite Pavement Markers and Palm-N-Turn, including leased workers of Diversified Services Group, Heath, OH: December 19, 2002.

TA–W–53,946; Tyco Healthcare Group LP, Ludlow Company LP, Huntington Beach, CA: January 5, 2003.

TA–W–53,944; Universal Lighting Technologies, formerly Magnetek, including leased workers of Ranstad, Madison, AL: December 30, 2002.

TA–W–53,994; Union Tools, Inc., a subsidiary of Acorn Products, Frankfort, NY: January 12, 2003.

TA–W–54,084; Ropak Atlantic, Inc., a subsidiary of Linpac Group Limited, Dayton, NJ: January 16, 2003.

TA–W–54,052; Ellis Hosiery Mills, Inc., including leased workers of Catawba Staffing, Hickory, NC: January 20, 2003.

TA–W–53,983 & A; Archibald Candy Co., West Jackson Plant, Chicago, IL: January 8, 2003.

TA–W–54,124; J.A. Dedouch Co., Oak Park, IL: January 28, 2003.

TA–W–53,958; Motorola, Operations Building, San Jose, CA: October 6, 2002.

TA–W–053,919 & A; Senco Products, Inf., (8485 Broadwell Rd), Cincinnati, OH and (8450 Broadwell Rd), Cincinnati, OH: February 5, 2004.

TA–W–54,063; Texas Instruments, Inc., Make-Leadframe Div., Attleboro, MA: January 16, 2003.

TA–W–54,184 & A; Tropical Sportswear International Corp., Cutting Facility, Tampa, FL and Distribution Center, Tampa, FL: January 15, 2003.

TA–W–54,015 & A; Sanmina-SCI Corp., Personal and Business Computing, Plant 474, including leased workers of Manpower, Durham, NC and Plant 475, including leased workers of Manpower Durham, NC: January 14, 2003.

TA–W–54,054; Lincoln County Manufacturing, Inc., Fayetteville, TN: January 14, 2003.

TA–W–54,218; Phelps Dodge Industries, Inc., Phelps Dodge Magnet Wire Div., El Paso, TX: February 6, 2003.

TA–W–53,957; H. Warshow & Sons, Inc., Tappahannock, VA: January 5, 2003.

TA–W–54,067; Eaton Corp., Powertrain Controls Div., Marshall, MI: January 20, 2003.

TA–W–54,046; Best Manufacturing Group, LLC, Estill, SC: January 15, 2003.

TA–W–53,766; Network Elements, Manufacturing Div., Beaverton, OR: December 9, 2002.

TA–W–53,868; Signage, Inc., Centerville, TN: December 19, 2002.

TA–W–53,981; Marine Accessories Corp., Westland Industries, Tempe, AZ: January 6, 2003.

TA–W–53,975; Weavexx Corp., Farmville Facility, a wholly owned subsidiary of Xerium S.A., Farmville, VA: December 19, 2002.

TA–W–54,036; PolyOne Corp., Engineered Films, Burlington, NJ: January 13, 2003.

The following certification has been issued. The requirement of upstream supplier to a trade certified primary firm has been met.

TA–W–54,044; Temple Inland Forest Products Corp., Building Products Div., Temple Clarion MDF Plant, Shippenville, PA: February 9, 2004.

Negative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have not been met for the reasons specified.

The Department as determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–53,318; Moll Industries, Austin, TX.

TA–W–53,865; American Standard, Inc., Porcher Div., Chandler, AZ.

TA–W–53,843; Diversified Dynamics Corp., Home Right Div., Blaine, MN.

TA–W–53,270; C & L Manufacturing Co., Hays, NC.

The Department as determined that criterion (3) of Section 246 has not been met. The competitive conditions within the workers' industry is adverse.

TA–W–54,123; Bard Endoscopic Technologies, Mentor, OH.

TA–W–53,519; Field Container Co. L.P., St. Clair Pakwell Div., Bellwood, IL.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–53,910; American Standard, Inc., Americas Bath and Kitchen, Tiffin, OH

TA–W–53,644; Hussey Copper Ltd, Kenilworth, NJ

TA–W–54,137; Dan River, Inc., Camellia Plant, Juliette, GA

TA–W–53,953; Cooper Standard Automotive, North American Sealing Systems, Griffin, GA

TA–W–54,026; Central Textiles, Inc., Pickens, SC

TA–W–53,974 & A; General Chemical Corp., Delaware Valley Works, Process Additives Div., & Sulfuric Acid Div., Wilmington, DE

Since the workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

TA–W–54,113; Dormer Tools, Asheville, NC

TA–W–54,131; Applied Micro Circuits Corp., AMCC Interconnect, Fort Collins, CO

TA–W–54,192; NCR Corp., Teradata Global Support Center, San Diego, CA

TA–W–53,844; Hein Werner Division of Equipment Services, Inc., a subsidiary of Snap-On, Inc., Waukeha, WI

TA–W–53,936; Analytical Survey, Inc., San Antonio, TX

TA–W–54,119; Micro Warehouse, Inc., a subsidiary of Bridgeport Holdings, Inc., Lakewood, NJ

TA–W–53,948; Seagate Technology, LLC, Research and Development Div., Oklahoma City, OK

TA–W–53,961; SimplexGrinnell L.P., d/b/a Tyco Safety Products, Westlake, OH

TA–W–53,834; Snap-On Tools, Inc., Mt. Carmel Plant, Mt. Carmel, IL

TA–W–53,826 & A; Flex-N-Gate LLC, Warren Stamping Plant 1, Warren, MI and Plant 2, Warren, MI

TA–W–53,790; Snap-Tite, Inc., Autoclave Engineers Div., Erie, PA

TA–W–53,702; Snap On Manufacturing Co., Kenosha, WI

TA–W–53,851; Collins and Aikman, Adrian Operations, Dura Div., Adrian, MI

TA–W–53,832; Morrill Motors, Inc., Sneedville, Plant, Sneedville, TN

TA–W–53,825; Georgia-Pacific Resins, Inc., Chemical Div., White City, OR

TA–W–53,798; Mohican Mills, Inc., Lincolnton, NC

TA–W–53,734; Arvin Meritor, Franklin Plant, Franklin, IN

TA–W–53,548; Comet Tools Co., Inc., Injection Molding Department, Pitman, NJ

TA–W–53,973; Warner Electric, Inc., a subsidiary of Colfax Corp., Roscoe, IL

TA–W–53,585; Sealed Air Corp., Salem, IL

TA–W–53,845; Rohn Industries, Inc., Rohn Products Div., Frankfort, IN

TA–W–53,664; Owens-Illinois, Inc., Hayward, CA

TA–W–53,978; Academy Die Casting & Plating Co., Inc., Edison, NJ

TA–W–54,176; Malamute Enterprises, Inc., Fishing Vessel (F/V) Malamute Kid, Homer, AK

TA–W–53,898; Timken U.S. Corp., formerly known as The Torrington Co., Torrington, CT

TA–W–54,012; Perry Judd's, Waterloo, WI

TA–W–53,864; Lu-Mac, Inc., Ford City, PA

TA–W–54,141; Tyco Healthcare Kendall, a subsidiary of Tyco International, LLC, including leased workers at Keena Staffing Co., Argyle, NY

TA–W–54,043; Ramseur Interlock Knitting Co., Inc., Ramseur, NC

TA–W–54,048C; West Point Stevens, Fairfax Facility, Bath Products Div., Valley, AL

Affirmative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determinations.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have been met.

I. Whether a significant number of workers in the workers' firm are 50 years of age or older.

II. Whether the workers in the workers' firm possess skills that are not easily transferable.

III. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

TA–W–53,779; National Mills, Inc., Pittsburg, KS: "All workers engaged in employment related to the production of screen-printed tee shirts, who became totally or partially separated from employment on or after December 8, 2002 are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

TA–W–54,009; Oxford Drapery, Inc., Timmonsville, SC: January 12, 2003.

TA–W–53,969; Flint River Textiles, Inc., Albany, GA: January 7, 2003.

TA–W–54,048 & A & B; West Point Stevens, Dunson Facility, Bed Products Div., LaGrange, GA and Lanier Facility, Bed Products Div., Valley, AL and Dixie Facility, Bath Products Div., LaGrange, GA: January 15, 2003.

TA–W–53,960; Waukesha Kramer, Inc., Milwaukee, WI: January 7, 2003.

TA–W–53,971; Bailey Manufacturing Corp., S.J. Bailey & Sons, Inc., Fryeburg, ME: December 22, 2002.

TA–W–53,528; Textron Fastening Systems, Ferndale Fastener Div., Madison Heights, MI: November 11, 2002.

TA–W–53,987; Air Products and Chemicals, Inc., including leased workers of Shaw Maintenance, Inc., Pace, FL: January 12, 2003.

TA–W–53,967; Osram Sylvania, Inc., Materials Div., Warren, PA: December 30, 2002.

TA–W–54,126; American Fast Print Ltd, U.S. Finishing Div., a subsidiary of Atlantex Ltd, Greenville, SC: January 28, 2003.

TA–W–53,968; FMC Corp., Active Oxidants Div., Tonawanda, NY: December 22, 2002.

TA–W–53,966; Wellington Leisure Products, Leesville Synthetic Fibers, Leesville, SC: December 31, 2002.

TA–W–53,982; Bassett Furniture Industries, Inc., Upholstery Div.-Hiddenite, Hiddenite, NC: January 8, 2003.

TA–W–53,854; Warnaco Group, Inc., Milford, CT and Stratford, CT: December 18, 2002.

TA–W–53,878 & A; NVF Co., Yorklyn, DE and Kennett Square, PA: December 16, 2002.

TA–W–54,188; Ispat Inland, Inc., Sales and Marketing Department, Chicago, IL: February 3, 2003.

TA–W–53,744 & A, B; Lands' End, Inc., a subsidiary of Sears, Roebuck and Co., Dodgeville Facility, Dodgeville, WI, Elkader Facility, Elkader, IA and West Union Facility, West Union, IA: November 25, 2002.

TA–W–53,870; Hoffman-La Roche, Inc., Chemical Operations Department, Nutley, NJ: December 22, 2002.

TA–W–53,793; Keeler Brass Co., including leased workers of Talent Tree, Inc., Grand Rapids, MI: December 2, 2002.

TA–W–53,863; Meadow River Enterprises, Metal Fabrication Div., Lewisburg, WV: December 15, 2002.

TA–W–53,827; Bridgestone/Firestone Off-Road Tires, Bloomington, IL: September 11, 2003.

TA–W–53,906 & A; Dixie Chips, Inc., Evergreen, AL and Brundidge, AL: December 29, 2002.

TA–W–53,884; S.J. Bailey and Sons, Inc., Carbondale Plant, Carbondale, PA: December 17, 2002.

TA–W–53,915; First Source Furniture Group, Regional Support Center, a subsidiary of Haworth, Inc., Nashville, TN: December 26, 2002.

TA–W–54,030; Interstate Industries of Mississippi, LLC, Kosciusko, MS: January 15, 2003.

TA–W–54,124; J.A. Dedouch Co., Ok Park, IL: January 28, 2008.
TA–W–54,044; Temple Inland Forest Products Corp., Building Products Div., Temple Clarion MDF Plant, Shippenville, PA: February 9, 2004.
TA–W–53,983 & A; Archibald Candy Co., West Jackson Plant, Chicago, IL and Midway Distribution Center, Chicago, IL: January 8, 2003.
TA–W–53,958; Motorola Operations Building, San Jose, CA: October 6, 2002.
TA–W–53,919 & A; Senco Products, Inc., (8485 Broadwell Rd), Cincinnati, OH and (8450 Broadwell Rd), Cincinnati, OH: February 5, 2004.
TA–W–54,063; Texas Instruments, Inc., Make-Leadframe Div., Attleboro, MA: January 16, 2003.
TA–W–54,184 & A; Tropical Sportswear International Corp., Cutting Facility, Tampa, FL and Distribution Center, Tampa, FL: January 15, 2003.
TA–W–54,015; Sanmina-SCI Corp., Personal and Business Computing, Plant 474, including leased workers of Manpower, Durham, NC and Plant 475, including leased workers of Manpower, Durham, NC: January 14, 2003.
TA–W–54,054; Lincoln County Manufacturing, Inc., Fayetteville, TN: January 14, 2003.
TA–W–54,218; Phelps Dodge Industries, Inc., Phelps Dodge Magnet Wire Div., El Paso, TX: February 6, 2003.
TA–W–53,957; H. Warshow & Sons, Inc., Tappahannock, VA: January 5, 2003.
TA–W–54,067; Eaton Corp., Powertrain Controls Div., Marshall, MI: January 20, 2003.
TA–W–54,046; Best Manufacturing Group, LLC, Estill, SC: January 15, 2003.
TA–W–53,766; Network Elements, Manufacturing Div., Beaverton, OR: December 9, 2002.
TA–W–53,868; Signage, Inc., Centerville, TN: December 19, 2002.
TA–W–53,981; Marine Accessories Corp., Westland Industries, Tempe, AZ: January 6, 2003.
TA–W–53,975; Weavexx Corp., Farmville Facility, a wholly owned subsidiary of Xerium s.A., Farmville, VA: December 19, 2002.
TA–W–54,036; PolyOne Corp., Engineered Films, Burlington, NJ: January 13, 2003.

I hereby certify that the aforementioned determinations were issued during the months of January and February 2004. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 2, 2004.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 04–5615 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,461]

Symtech, Inc., Spartanburg, SC; Notice of Negative Determination on Reconsideration

On January 28, 2004, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice of determination was published in the **Federal Register** on February 11, 2004 (69 FR 6698).

The Department initially denied Trade Adjustment Assistance (TAA) to workers of Symtech, Inc., Spartanburg, South Carolina because the workers did not produce an article within the meaning of section 222 of the Trade Act and are not service workers whose separations were caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to their firm by ownership, or a firm related by control.

In the request for reconsideration, the petitioner alleged that production did occur at the subject company and therefore, the service worker designation was erroneous.

The reconsideration investigation revealed that although machine assembly was done at the subject company, it was a negligible amount of total company sales during the relevant time period. The main functions of the company were the sale, distribution, and servicing of machines.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 27th day of February, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5608 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,416]

Wolverine Pattern and Machine, Inc., Saginaw, MI; Notice of Negative Determination Regarding Application for Reconsideration

By application of January 5, 2004, the International Association of Machinists and Aerospace Workers Local Patternmakers 2839 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on December 9, 2003, and published in the **Federal Register** on January 16, 2004 (69 FR 2622).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Wolverine Pattern and Machine, Inc., Saginaw, Michigan was denied because the "contributed importantly" group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm and/or through a survey of firms to which the subject firm submitted bids. In this case, the bid survey revealed that none of the respondent customer firms awarded their bids for industrial molds and tooling to foreign competitors. The subject firm did not import industrial molds and tooling in the relevant period nor did it shift production to a foreign country.

The petitioner refers to the subject firm's competitor, National Pattern, Inc.,

Saginaw, Michigan, which also filed a petition for TAA and was certified on December 3, 2003. The petitioner states that workers of the subject firm and workers of National Pattern, Inc. build tooling for the Foundry and Mold Industry and both firms are impacted by foreign competition. The Union further alleges that because workers of National Pattern, Inc. were certified eligible for TAA, workers of the subject firm should also be eligible.

A review of competitors is not relevant to an investigation concerning import impact on workers applying for trade adjustment assistance. The review of both cases revealed that workers of Wolverine Pattern & Machine, Inc. and National Pattern, Inc. are engaged in the production for Foundry and Mold Industry; however, they do not share the same customer base and have no affiliation with each other. As noted above, "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm to examine the direct impact on a specific firm. While customers of National Pattern, Inc., Saginaw, Michigan reported an increase in imports of casting tooling during the relevant period, no imports were evidenced during the survey of subject firm's customers.

The Union also alleges that customers of the subject firms are importing tooling and moving facilities abroad.

A company official was requested to supply additional list of customers who might have awarded their contracts to foreign firms or were importing industrial molds and tooling. The official was not aware of any such contracts.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 20th day of February, 2004

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–5609 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

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Pennsylvania
PA030001 (Jun. 13, 2003)
PA030003 (Jun. 13, 2003)
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PA030051 (Jun. 13, 2003)
PA030052 (Jun. 13, 2003)

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage determinations Issued Under the Davis-Bacon And Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 4th day of March, 2004.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 04–5276 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Mingo Logan Coal Company

[Docket No. M–2004–007–C]

Mingo Logan Coal Company, 1000 Mingo Logan Avenue, Wharncliffe, West Virginia 25651 has filed a petition to modify the application of 30 CFR 77.214(a) (Refuse piles; general) to its Black Bear Preparation Plant (MSHA I.D. No. 46–07985) located in Mingo County, West Virginia. The petitioner proposes to use coarse coal mine refuse material from the Black Bear Preparation Plant to cover and reclaim abandoned mine openings at the Select No. 5 Mine. The petitioner has listed specific procedures in this petition that would be followed when its proposed alternative method is implemented. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Remington, LLC

[Docket No. M–2004–008–C]

Remington, LLC, 160 Lockheed Drive, Beaver, West Virginia 25813 has filed a petition to modify the application of 30 CFR 75.1002 (Installation of electric equipment and conductors; permissibility) to its Stockburg No. 2 Mine (MSHA I.D. No. 46–08635) located in Kanawha County, West Virginia. The petitioner proposes to use a high-voltage 2,400-volt Joy 14CM27 continuous miner at the Stockburg No. 2 Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Christy Minerals Company

[Docket No. M–2004–002–M]

Christy Minerals Company, P.O. Box 159, High Hill, Missouri 63350 has filed a petition to modify the application of 30 CFR 56.12028 (Testing grounding systems) to its Christy Minerals Plant (MSHA I.D. No. 46–08634) located in Montgomery County, Missouri. The petitioner proposes to conduct a visual inspection in lieu of an annual resistance test on all fixed outdoor installations where the equipment grounding conductor and other conduit are run above ground. The petitioner states that an annual resistance test, already in place at the plant, will be continued on any fixed installations subject to flexing, vibrations, and where the conduit is located below ground. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to *comments@msha.gov*, or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before April 12, 2004. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia, this 8th day of March, 2004.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 04–5590 Filed 3–11–04; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: NASA will conduct an open forum meeting to solicit questions, views and opinions of interested persons or firms concerning NASA's procurement policies, practices, and initiatives. The purpose of the meeting is to have an open discussion between NASA's Associate Administrator for Procurement, industry, and the public.

Note: This is not a meeting about how to do business with NASA for new firms, nor will it focus on small business initiatives or specific contracting opportunities. Position papers are not being solicited.

DATES: Thursday, May 6, 2004, from 10:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at NASA Johnson Space Center, Robert R. Gilruth Center, Lone Star Room (second floor), Houston, TX 77508. Enter at Gate 5 from Space Center Boulevard, Houston, Texas (view map at *http://jsc-web-pub.jsc.nasa.gov/bd01/Index.htm).*

FOR FURTHER INFORMATION CONTACT: NASA Johnson Space Center Industry Assistance Office, Mail Code BD35, 2101 NASA Parkway, Houston, TX 77508, (281) 483–4511 or (281) 483–4512.

SUPPLEMENTARY INFORMATION:

Admittance: Doors will open at 10 a.m. Admittance will be on a first-come, first-served basis. Room capacity is limited to approximately 90 persons. To ensure adequate seating, a maximum of two representatives per firm is requested. No reservations will be accepted. Badging will not be required.

Format: There will be a presentation by the Associate Administrator for Procurement, followed by a question and answer period. Procurement issues will be discussed, including current acquisition activities at NASA. Questions for the open forum should be presented at the meeting and should not be submitted in advance. Position papers are not being solicited

Tom Luedtke,

Assistant Administrator for Procurement.

[FR Doc. 04–5692 Filed 3–11–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until April 12, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below: Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0004.

Form Number: NCUA 5300 and NCUA 5300SF.

Type of Review: Revision to the currently approved collection.

Title: Quarterly Call Report.

Description: The financial and statistical information is essential to NCUA in carrying out its responsibility for the supervision of federally insured credit unions. The information also enables NCUA to monitor all federally insured credit unions whose share accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

Respondents: All Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 9,500.

Estimated Burden Hours Per Response: 6.6 hours.

Frequency of Response: Quarterly.

Estimated Total Annual Burden Hours: 250,800.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on March 4, 2004.

Becky Baker,

Secretary of the Board.

[FR Doc. 04–5570 Filed 3–11–04; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to Previously Approved Information Collections; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until April 12, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below: Clearance Officer: Mr. Neil McNamara, (703) 518–6440, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0155.

Form Numbers: CLF–8700 CLF–8705 CLF–8706 NCUA–7005, CLF–10.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Title: Central Liquidity Facility group/agent membership and loan activity forms.

Description: Forms used in conjunction with agent member's request for facility advances, to request agent membership in the Central Liquidity Facility and/or to establish terms of relationship between credit unions, agent members and agent group representatives.

Respondents: Credit unions.

Estimated No. of Respondents/Recordkeepers: 151.

Estimated Burden Hours Per Response: 1.64 hours.

Frequency of Response: Reporting and other.

Estimated Total Annual Burden Hours: 92.

Estimated Total Annual Cost: none.

By the National Credit Union Administration Board on March 4, 2004.

Becky Baker,

Secretary of the Board.

[FR Doc. 04–5571 Filed 3–11–04; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board

AGENCY: National Institute for Literacy.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and a summary of the agenda for an upcoming meeting of the National Institute for Literacy Advisory Board (Board). The notice also describes the functions of the Board. Notice of this meeting is required by section 10 (a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting. Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.*, interpreting services, assistive listening devices, or materials in alternative format) should notify Liz Hollis at telephone number (202) 233–2072 no later than March 26. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Date and Time: Open sessions—April 1, 2004, from 9 a.m. to 12 p.m. and April 2, 2004, from 9 a.m. to 12:15 p.m. Closed session—April 1, 2004, from 12 p.m. to 6 p.m.

ADDRESSES: National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Liz Hollis, Special Assistant to the Director; National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006; telephone number: (202) 233–2072; e-mail: *ehollis@nifl.gov.*

SUPPLEMENTARY INFORMATION: The Board is established under section 242 of the Workforce Investment Act of 1998, Pub. L. 105–220 (20 U.S.C. 9252). The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board advises and makes recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Board 's recommendations in planning the goals of the Institute and in implementing any programs to achieve those goals. Specifically, the Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and the Institute's Director.

The National Institute for Literacy Advisory Board meeting on April 1–2, 2004, will focus on future and current program activities, reauthorization of the Workforce Investment Act, and other relevant literacy activities and issues. On April 1, 2004 from 12 p.m. to 6 p.m., the meeting will be closed to the public to discuss personnel issues. This discussion relates to the internal personnel rules and practices of the Institute and is likely to disclose information of personal nature where disclosure would constitute a clearly unwarranted invasion of personnel privacy. The discussion may therefore be held in closed session under exemptions 2 and 6 of the Government in the Sunshine Act, 5 U.S.C. 552b (c) (2) and (6). A summary of the activities at the closed session and related matters that are informative to the public and consistent with the policy of 5 U.S.C. 552b will be available to the public within 14 days of the meeting.

Records are kept of all Advisory Board proceedings and are available for public inspection at the National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006, from 8:30 a.m. to 5 p.m.

Dated: March 8, 2004.

Sandra L. Baxter,

Interim Director.

[FR Doc. 04–5572 Filed 3–11–04; 8:45 am]

BILLING CODE 6055–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel in Earth Sciences

Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Earth Sciences Proposal Review Panel (1569).

Date & Time: March 29, 2004; 8:30 a.m.–5 p.m.; March 30, 2004; 8:30 a.m.–1 p.m.

Place: Revelle Room, AAAS Building, 1200 New York Avenue, Washington, DC 20005.

Type of Meeting: Part-Open—(see Agenda, below)

Contact Person: Dr. David Lambert, Program Director, Instrumentation & Facilities Program, Division of Earth Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8558.

Purpose of Meeting: To carry out review of IRIS management and leadership as stipulated in cooperative agreement EAR–0004370.

Agenda

Closed: March 29 from 8:30–9:30 a.m.: Organization meeting, introductions, review of charge to review panel, discussion of COI; and from 1–5 p.m.: Panel discussion, write up of summary of findings and recommendations. March 30 from 8:30 a.m.–1 p.m.: Complete panel summary and recommendations.

Open: March 29 from 9:30 a.m.–12 p.m.: Presentation by IRIS management and Q&A between panel and IRIS.

Reason for Closing: During the closed sessions, the panel will be reviewing information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: March, 9, 2004.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 04–5660 Filed 3–11–04; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Environmental Research and Education (AC–ERE); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Environmental Research and Education (9487).

Dates: April 14, 2004, 8 a.m.–5 p.m. and April 15, 2004, 8 a.m.–2:30 p.m.

Place: Stafford I, Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230.

Type of Meeting: Open.

Contact Person: Dr. Margaret Cavanaugh, Office of the Director, National Science Foundation, Suite 1205, 4201 Wilson Blvd., Arlington, Virginia 22230. Telephone: 703–292–8002.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda: April 14—Update on recent NSF environmental activities Report on the Biocomplexity in the Environment Committee of Visitors (BE–COV) Meeting.

Discussion of ACERE projects, such as occasional papers Panel presentations and discussion on "Integrating Environmental Observing Systems for Complex Environmental Systems."

April 15—AC–ERE task group meetings and reports Presentation on "Green Energy Production from Wastes using Bacteria."

Meeting with the Acting Director or Deputy Director.

Dated: March 9, 2004.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 04–5661 Filed 3–11–04; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–336 and 50–423]

Dominion Nuclear Connecticut, Inc., Millstone Power Station, Units 2 and 3; Notice of Acceptance for Docketing of the Applications and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License Nos. DPR–65 AND NPF–49 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering applications for the renewal of Operating License Nos. DPR–65 and NPF–49, which authorize the Dominion Nuclear Connecticut, Inc., to operate the Millstone Power Station at 2700 megawatts thermal for Unit 2 and at 3411 megawatts thermal for Unit 3, respectively. The renewed licenses would authorize the applicant to operate Millstone Power Station, Units 2 and 3, for an additional 20-years beyond the period specified in the current licenses. The current operating license for the Millstone Unit 2 (DRP–65) expires on July 31, 2015; the current operating license for Millstone Unit 3 expires on November 25, 2025.

On January 22, 2004, the Commission's staff received applications from Dominion Nuclear Connecticut, Inc. filed pursuant to 10 CFR Part 54, to renew the Operating License Nos. DPR–65 and NPF–49 for Millstone Power Station, Units 2 and 3, respectively. A Notice of Receipt and Availability of the license renewal applications, "Dominion Nuclear Connecticut, Inc., Notice of Receipt and Availability of Application for Renewal of Millstone Power Station, Units 2 and 3, Facility Operating License Nos. DPR–65 and NPF–49 for Additional 20-Year Period," was published in the **Federal Register** on February 3, 2004 (69 FR 5197).

The Commission's staff has determined that Dominion Nuclear Connecticut, Inc. has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is acceptable for docketing. The current Docket Nos. 50–336 and 50–423 for Operating License Nos. DPR–65 and NPF–49, respectively, will be retained. The docketing of the renewal applications does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed licenses will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants," dated May 1996. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice.

Within 60 days after the date of publication of this **Federal Register** Notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the licenses. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and is accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff at 1–800–397–4209, or by e-mail at *pdr@nrc.gov.* If a request for a hearing or a petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the licenses without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Atomic Energy Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. *Technical*—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applicant's safety analysis for the Millstone Power Station Unit 2 and Unit 3 license renewal applications.

2. *Environmental*—primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the license renewal applications.

3. *Miscellaneous*—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention, the requestors/petitioners shall jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention. If a requestor/petitioner seeks to adopt the contention of another sponsoring requestor/petitioner, the requestor/petitioner who seeks to adopt the contention must either agree that the sponsoring requestor/petitioner shall act as the representative with respect to that contention, or jointly designate with the sponsoring requestor/petitioner a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to participate fully in the conduct of the hearing. A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at 301–415–1101, verification number is 301–415–1966. A copy of the request for hearing and petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

Detailed information about the license renewal process can be found at *http://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's Web page. Copies of the applications to renew the operating licenses for Millstone Power Station, Units 2 and 3, are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20855–2738, and on the NRC's Web page at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html* while the application is under review. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS accession number ML0402701666. Persons who do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS may contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

The staff has verified that a copy of the license renewal applications is also available to local residents near the Millstone Power Station at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385–2806, and at the Three Rivers Community College, Thames River Campus, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland, this 8th day of March 2004.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 04–5599 Filed 3–11–04; 8:45 am]

BILLING CODE 7590–01–P

[1] To the extent that the applications contain attachments and supporting documents that are not publically available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

License No. SUB–1010; Sequoyah Fuels Corporation; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated October 2, 2003, the Cherokee Nation and the State of Oklahoma (collectively, the Petitioners) have requested that the U.S. Nuclear Regulatory Commission (NRC) take enforcement actions against the Sequoyah Fuels Corporation (SFC). The Petitioners request that NRC deny SFC's requests to approve proposed license amendments. The proposed amendments include a proposed Ground Water Monitoring Plan (GWMP) and a proposed Ground Water Corrective Action Plan (GWCAP) for the SFC site near Gore, Oklahoma.

As bases for this request, the Petitioners identified alleged deficiencies in SFC's proposed GWMP and in their proposed GWCAP. The Petitioners stated that the GWMP is inadequate and that the GWCAP is not protective of human health and the environment and identified specific areas they believe to be deficient in each plan.

The Petitioners requested a hearing, which was denied on November 19, 2003, on the proposed license amendments before the Atomic Safety and Licensing Board (ASLB). The Cherokee Nation appealed the ASLB decision to the Commission. The appeal was denied on January 14, 2004. In accordance with 10 CFR 2.1205(l)(2), the ASLB Presiding Officer referred the petition to the NRC staff to be treated as a petition for enforcement action under 10 CFR 2.206. The request has been referred to the Director of the Office of Nuclear Material Safety and Safeguards. As provided by section 2.206, appropriate action will be taken on this petition within a reasonable time. A copy of the petition is available in the Agencywide Documents Access and Management System (ADAMS) for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on the NRC's Web site, *http://www.nrc.gov* (the Public Electronic Reading Room) using Accession No. ML033440220. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland this 1st day of March, 2004.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 04–5598 Filed 3–11–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of a Regulatory Issue Summary for Deferring Active Regulation of Ground-Water Protection at *In Situ* Leach Uranium Extraction Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has developed Regulatory Issue Summary (RIS) 2004–02, "Deferral of Active Regulation of Ground-Water Protection at *In Situ* Leach (ISL) Uranium Extraction Facilities" dated February 23, 2004. The NRC regulation of ground water at ISL facilities often duplicates the ground-water protection programs required by the Safe Drinking Water Act, as administered by the U.S. Environmental Protection Agency (EPA) or EPA-authorized States. The NRC is proposing to end duplication of ground-water protection programs at ISL facilities by deferring active ground-water regulation to EPA-authorized States. The RIS summarizes the process that the NRC plans to use for insuring that a State's ground-water protection program provides adequate protection of public health and safety, and the environment, equivalent to the NRC program. Interested parties may comment on the proposed approach. The comment period will be open for 30 days from the publication of this notice.

ADDRESSES: Electronic copies of this document are available for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room). RIS 2004–02 is under Adams Accession Number ML040550197. The document is also available for inspection or copying for a fee at the NRC's Public Document Room, 11555 Rockville Pike, Room O1–F21, Rockville, Maryland, 20852. This guidance document is not copyrighted, and Commission approval is not required to reproduce it.

FOR FURTHER INFORMATION CONTACT: John Lusher, Office of Nuclear Material Safety and Safeguards, Division of Fuel Cycle Safety and Safeguards, Mail Stop T–8 A33, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7694, or by e-mail at *jhl@nrc.gov*.

Dated in Rockville, Maryland this 5th day of March, 2004.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Chief, Uranium Processing Section, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 04–5597 Filed 3–11–04; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

OMB Circular A–133 Information Collection Under OMB Review

AGENCY: Office of Management and Budget.

ACTION: Notice of submission for OMB review, comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*), this notice announces that an information collection request was submitted to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) for processing under 5 CFR 1320.10. The first notice of this information collection request, as required by the Paperwork Reduction Act, was published in the **Federal Register** on August 15, 2003 (68 FR 48960). The information collection request involves two proposed information collections from two types of entities: (1) Reports from auditors to auditees concerning audit results, audit findings, and questioned costs; and (2) reports from auditees to the Federal government providing information about the auditees, the awards they administer, and the audit results. These collection efforts are required by the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 *et seq.*) and OMB Circular A–133, "Audits of States, Local Governments, and Non-Profit Organizations." Circular A–133's information collection requirements apply to approximately 30,000 States, local governments, and non-profit organizations on an annual basis.

DATES: Submit comments on or before April 12, 2004. Late comments will be considered to the extent practicable.

ADDRESSES: Due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

Electronic mail comments may be submitted via the Internet to *ahunt@omb.eop.gov*. Please include "Form SF–SAC Comments" in the subject line and the full body of your comments in the text of the electronic message and not as an attachment. Please include your name, title, organization, postal address, telephone number and E-mail address in the text of the message. You may also submit comments via facsimile to 202–395–7285.

Comments may be mailed to Alexander Hunt, Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Room 10236, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information, contact Elizabeth C. Phillips, Office of Federal Financial Management, Office of Management and Budget, 202–395–3053 (direct) or 202–395–3993 (main office) and via e-mail: *ephillip@omb.eop.gov*. The data collection form, SF–SAC, and its instructions can be obtained by contacting the Office of Federal Financial Management, as indicated above or by download from the OMB Grants Management home page on the Internet at *http://www.whitehouse.gov/omb/grants* by selecting the "Forms" option.

SUPPLEMENTARY INFORMATION:

A. Background

OMB Control No.: 0348–0057.

Title: Data Collection Form.

Form No: SF-SAC.

Type of Review: Revision of a currently approved collection.

Respondents: States, local governments, non-profit organizations (non-Federal entities) and their auditors.

Estimated Number of Respondents: 62,400.

Estimated Time per Respondent: 59 hours for each of 400 large respondents and 17 hours for each of 62,000 small respondents for estimated annual burden hours of 1,077,600.

Estimated Number of Responses per Respondent: 1.

Frequency of Response: Annually.

Needs and Uses: Reports from auditors to auditees and reports from auditees to the Federal government are used by non-Federal entities, pass-through entities, and Federal agencies to ensure that Federal awards are expended in accordance with applicable laws and regulations. The Federal Audit Clearinghouse (FAC) (maintained by the U.S. Census Bureau) uses the information on the SF–SAC to ensure proper distribution of audit reports to Federal agencies and to identify non-Federal entities who have not filed the required reports. The FAC also uses the information on the SF–SAC to create a government-wide database which contains information on audit results. This database is publicly accessible on the Internet at *http://harvester.census.gov/fac/*. It is used by Federal agencies, pass-through entities, non-Federal entities, auditors, the General Accounting Office, OMB, and the general public for management and information about Federal awards and the results of audits.

B. Public Comments and Responses

Pursuant to the August 15, 2003, **Federal Register** notice, OMB received 17 comment letters relating to the proposed revision to the information collection. Letters came from State governments (including State auditors), certified public accountants (CPAs) at two national accounting firms, and three Federal agencies. The comments received relating to the information collection and OMB's responses are summarized below.

General

Comments: Six comments were in favor of the proposed changes. General comments included concerns about the clarity of the instructions and an overall concern with the DUNS numbers requirement.

Electronic Submission

Comments: Six States endorsed the proposed procedure to allow electronic submission of the reporting package and Form SF-SAC. Two State auditors and the AICPA expressed concern over the limitation on the number of PDF files in electronic submissions.

Response: All suggestions offered will be given consideration during the development phase. However, standardization of electronic submission is necessary to allow the FAC to develop an automated procedure to process and manage the submissions.

Addition of DUNS numbers

Comments: Five State auditors and the AICPA found the instructions confusing or unclear about different issues. The main concerns centered on questions about why DUNS are required, which DUNS numbers are required to be reported, and the reporting burden.

Response: The intent of this item is to capture only the DUNS numbers related to Federal award applications submitted on or after October 1, 2003. DUNS numbers are collected to tighten Federal oversight of Federal award expenditures. The instructions have been re-worded to clarify the intent of the question.

Auditor Information

Comment: One State auditor commented that it is not clear whether Federal agencies are interested in knowing of the additional audit organizations that participated in the audit of Federal programs, or in knowing of all additional audit organizations, including those that participated in the financial statements audit for departments in which no Federal programs were tested. The commenter felt the instructions should more clearly describe which additional audit organizations must be included.

Response: Agree. The form instructions for part I, item 7(g) were revised to clarify this.

Auditor Certification

Comments: One commenter noted that the auditor statement should be revised as follows: "The information included in Parts II and III of the Form, except for Part III, Items 7, 8, and 9a through 9e, was transferred from the auditor's report(s) for the period ***"

Response: Agree. The auditor certification statement was corrected.

Financial Statements-Type of Audit Report

Comment: Two auditors commented that the type of audit report for financial statements (part II, item 1) should allow the auditor to select any combination of responses that apply to all the differing types of opinions that have been issued, including unqualified opinions.

Response: Agree. The instructions were revised to allow any combination of responses for this item (financial statements). Major programs, however, are still limited to only one opinion for each program as a whole (including clusters).

Statement in Auditor's Report

Comment: The AICPA commented that part III, item 1 refers to AICPA SOP 98–3. That SOP was recently replaced by an AICPA audit guide titled, *Audits of States, Local Governments, and Not-for-Profit Organizations Receiving Federal Awards.*

Response: The form and form instructions have been revised.

Dollar Threshold To Distinguish Type A and Type B Programs

Comment: Three comments noted an error in the instructions. The dollar threshold used to distinguish between Type A and Type B programs did not change to $500,000.

Response: Agree. The minimum threshold to distinguish between Type A and Type B programs remains $300,000. The form instructions were corrected.

Reporting Packages

Comment: One State auditor commented that hard copy submissions of reporting packages should no longer be required.

Response: Submission of reporting packages are still required. However, more options will be available. The Federal Audit Clearinghouse is developing a procedure to permit auditees to submit either an electronic version of the reporting package or the appropriate number of hard copies. The form instructions were changed to direct those interested in an electronic submission to the FAC Web site for further instructions.

Federal Awards Reporting (Form Page 3)

Comment: One Federal agency commented that requiring awardees to separately input this information into the Federal Audit Clearinghouse database for each CFDA number could create an unnecessary administrative burden on the awardees.

Response: OMB has determined that the most effective way to capture the Schedule of Federal awards and the auditors' findings is to require the respondents to compile the information in the data collection form. The alternative is to require the Federal Audit Clearinghouse to interpret and type the information from each of the different 35,000 audit reports received annually into its database. It is deemed unreasonable to expect the Federal Audit Clearinghouse staff to accurately interpret so many different audit reports. It is more reasonable that the auditor should be able to more accurately translate its report into the standardized format on the SF–SAC.

Comment: The Instructions for Completing Form SF-SAC do not explain what to use as the name of the Federal program in column 9(c) if the Federal program is not in the CFDA.

Response: Additional instructions have been added for clarification.

Comment: One State auditor commented that it is not clear what benefit is gained by being able to show more than one opinion if there is not any information as to what an other-than-unqualified opinion pertains to. It is a burden to make an additional entry to code the opinion on each line.

Response: To provide better oversight, the Federal agencies requested that the type of audit report for each major program be captured on the data collection form. Because large auditees use spreadsheet uploads of the Federal award data on page 3 of the form, OMB disagrees that the burden of entering a letter on each line for each major program is a significant burden.

Comment: One commenter was not certain how type of audit information should be entered. Specifically, should the auditor enter the required information (major program and type of audit report) relating to the CFDA number in its entirety on the first line and leave the other line(s) blank or would they repeat the entry on every line?

Response: Each line must be completed. The instructions have been revised to clarify this.

Comment: One State auditor was not certain how to report a departure from an unqualified opinion on a major program cluster if the opinion is not related to all programs in the cluster. Specifically, what should be entered in the box for the programs not causing the departure from an unqualified opinion?

Response: The type of audit report for a major program must apply to the whole program. All programs in a major program cluster should have the same type of audit report.

Editorial

Comment: One commenter stated that additional guidance should be given auditors who will discover both Federal Emergency Management Administration (FEMA) grants and Department of Homeland Security (DHS) grants in the same audit year.

Response: The Catalog of Federal Domestic Assistance, Appendix VII "Historical Profile of Catalog Programs" provides a historical index to changed CFDA numbers (*http://www.cfda.gov/*). When new DHS CFDA numbers replace FEMA CFDA numbers, auditees should rely on the Catalog and its historical index. Until the Catalog is revised, FEMA awards should be reported using the original CFDA numbers.

Form Instructions

Comment: One Federal agency commented that the form instructions need to more clearly indicate the SF–SAC is not to be used by commercial organizations.

Response: Agree. The form instructions have been revised. A note was added on the first page of the instructions.

Comment: One auditor stated that the current instructions are too vague regarding the date the form is due. A better explanation is requested in the form instructions

Response: Agree. The form instructions were revised to denote the due date formula.

Linda M. Springer,

Controller.

[FR Doc. 04–5147 Filed 3–11–04; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of March 15, 2004:

A Closed Meeting will be held on Thursday, March 18, 2004 at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (5), (7), (8), (9), and (10) and 17 CFR 200.402(a) (4), (5), (7), (8), 9(ii), and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, March 18, 2004 will be:

Formal orders of investigation;

Institution and settlement of injunctive actions; and

Regulatory matters involving a financial institution.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: March 9, 2004.
Jonathan G. Katz,
Secretary.
[FR Doc. 04–5730 Filed 3–9–04; 4:25 pm]
BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27808]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 5, 2004.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 29, 2004, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After March 29, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Exelon Corporation (70–10189)

Exelon Corporation ("Exelon"), a registered holding company; Exelon's public utility subsidiaries: Commonwealth Edison ("ComEd"); Exelon Generation Company, LLC ("Genco"), 300 Exelon Way, Kennet Square, PA 19348; PECO Energy Company ("PECO") 2301 Market Street, Philadelphia, PA 19101; Commonwealth Edison Company of Indiana ("ComEd Indiana"); Exelon's nonutility registered holding company subsidiaries Exelon Energy Delivery Company, LLC ("Delivery") and Exelon Ventures Company, LLC ("Ventures"); and Exelon's nonutility subsidiaries ("Nonutility Subsidiaries")[1] Exelon Business Services Company ("Exelon Business Services"); ECP Telecommunications Holdings, LLC ("ECP Telecommunications"); EEI Telecommunications Holding, LLC ("EEI Telecommunications"); Energy Trading Company; Exelon Capital Partners, Inc. ("Exelon Capital Partners"); Exelon Communications Company, LLC (Exelon Communications"); Exelon Communications Holdings, LLC ("Exelon Communications Holdings"); Exelon Energy Company; Exelon Energy Delivery Company, LLC ("Exelon Energy Delivery"); Exelon Enterprises Company, LLC ("Exelon Enterprises"); Exelon Enterprises Investments, Inc. ("Exelon Enterprises Investments"); Exelon Enterprises Management, Inc. ("Exelon Enterprises Management"); Exelon New Trust Company; Exelon Services, Inc.; Exelon Thermal Development, Inc. ("Exelon Thermal Development"); Exelon Thermal Holding, Inc. ("Exelon Thermal Holding"); Exelon Thermal Technologies Inc. ("Exelon Thermal Technologies"); F&M Holdings Company, LLC ("F&M Holdings Company"); PECO Energy Power Company ("PEPCO"), Susquehanna Power Company, Susquehanna Electric Company; Unicom Power Holdings, LLC ("Unicom Power Holdings"); Unicom Power Marketing, Inc. ("Unicom Power Marketing"); Unicom Investments, Inc. ("UII"); and Adwin Equipment Company ("Adwin") all except PECO and Genco located at 10 South Dearborn Street, Chicago, IL 60603, have filed an application-declaration ("Application") under sections 6(a), 7, 9(a), 10, 12, 13(b), 32, 33, and 34 of the Act and rules 42, 43, 44, 45, 46, 53, and 54 under the Act.

I. Background

By order dated October 19, 2000 (HCAR No. 27256) ("Merger Order"), the Commission authorized Exelon to exchange its common stock for the common stock of PECO, followed by a merger of Unicom with and into Exelon ("Merger"). By orders dated November 2, 2000 (HCAR No. 27266) ("November Order") and December 8, 2000 (HCAR No. 27296) ("December Order" and together with the November Order, "Prior Orders"), Applicants were authorized to engage in certain financing transactions through March 31, 2004.

[1] The Utility Subsidiaries, Ventures, Delivery, and the Nonutility Subsidiaries are collectively referred to as "Subsidiaries."

II. Description of the Parties to the Transaction

A. Utility Subsidiaries

Applicants state that by March 31, 2004, Exelon will have four operating public utility company subsidiaries ("Utility Subsidiaries"):

1. PECO, a public utility company engaged (i) in the purchase, transmission, distribution and sale of electricity and (ii) in the purchase, distribution, and sale of natural gas in Pennsylvania;

2. ComEd, a public utility company engaged in the purchase, transmission, distribution, and sale of electricity in Illinois;

3. Genco, a public utility company and a registered holding company engaged in the purchase, generation and sale of electricity in Pennsylvania, Illinois and elsewhere; and

4. ComEd of Indiana, a public utility company that has no retail customers.

In addition, Applicants state that Exelon has the following public utility subsidiaries ("Conowingo Companies"):

1. PEPCO, which is also a registered holding company and the parent company of Susquehanna Power Company,

2. Susquehanna Power Company, and

3. Susquehanna Electric Company.

Applicants state that each of the Conowingo Companies is exclusively engaged in owning and/or operating a hydroelectric generation project, the power of which is sold at wholesale. Applicants state that Exelon will cause each of the Conowingo companies to make the necessary filing with the FERC to become exempt wholesale generators ("EWGs"), as that term is defined in section 32 of the Act prior March 31, 2004.

B. Nonutility Subsidiaries

1. Delivery is the intermediate registered holding company for ComEd and PECO;

2. Exelon Business Services Company ("Exelon Business Services"), is the service company for the Exelon System;

3. Ventures, is a registered holding company and a first tier Subsidiary of Exelon which has as wholly owned subsidiaries, Genco and Exelon Enterprises Company, LLC ("Exelon Enterprises"); and

4. Exelon Enterprises, the principal Subsidiary through which Exelon conducts its nonutility businesses.

Applicants state that effective as of January 1, 2001, Exelon effectuated a corporate restructuring ("Restructuring") contemplated in the Merger Order. The Restructuring consisted of the transfer of electric

generating assets of ComEd and PECO to Genco and the transfer of nonutility subsidiaries of PECO and Unicom Enterprises, Inc. to be indirect subsidiaries of Ventures. Applicants state that since the date of the Restructuring, the Exelon system has included four registered holding companies in addition to Exelon: Ventures, which was required for tax purposes to serve as a holding company for Genco and Enterprises; Delivery, which serves to enhance the integration of Exelon's principal state regulated utilities ComEd and PECO; Genco, which controls all of the Exelon system's generating assets including the Conowingo Companies; and PEPCO.

Applicants state that, with the conversion of the Conowingo Companies to EWGs, Genco and PEPCO will no longer own a public utility company subsidiary within the meaning of the Act. Consequently, Applicants request that Genco and PEPCO each receive authorization to de-register under section 5(d) of the Act.

II. Overview of the Requests

Applicants request authorization to engage in the following financing transactions during the period from the effective date of the order in this filing through April 15, 2007 ("Authorization Period").

i. External issuances by Exelon of common stock, preferred stock, preferred securities ("Preferred Securities"), as defined below, equity linked securities ("Equity Linked Securities"), as defined below, long-term debt, and short-term debt to increase Exelon's capitalization by up to $8.0 billion over existing capitalization at the time of the order in this matter ("External Limit");

ii. External issuances by Exelon of common stock, preferred stock, Preferred Securities, Equity Linked Securities, long-term debt, and short-term debt to refund or replace existing securities without increasing capitalization;

iii. External issuances of up to 21 million shares of Exelon common stock under Exelon's dividend reinvestment plan, certain incentive compensation plans, and certain other employee benefit plans;

iv. The entering into by Exelon of hedging transactions;

v. External issuances by Genco of membership interests ("Member Interests"),[2] preferred equity interests, Preferred Securities, Equity Linked Securities, long-term debt, and short term debt to increase its capitalization, subject to the $8 billion limitation applicable to Exelon, or to refund or replace existing securities without increasing capitalization or to assume certain pollution control obligations currently outstanding for ComEd or PECO;

vi. The formation of financing entities and the issuance by financing entities of securities otherwise authorized to be issued and sold through authority granted in this Application or applicable exemptions under the Act, including intra-system guarantees of securities;

vii. The issuance of intra-system advances and guarantees, to the extent not exempt by rules 45(b) and 52, by Exelon to or on behalf of its Subsidiaries and others, by the Nonutility Subsidiaries to or on behalf of other Nonutility Subsidiaries and others and by the Utility Subsidiaries to or on behalf of the Utility Subsidiary's direct or indirect subsidiaries and others;

viii. Issuances by the Utility Subsidiaries of short-term debt securities (including commercial paper) in an amount not to exceed $2.7 billion issued and outstanding at any time and external issuances of long-term debt or short-term debt to refund or replace existing securities without increasing capitalization, to the extent not exempt under rule 52;

ix. The entering into of hedging transactions by the Utility Subsidiaries;

x. Modifications to the Utility Money Pool and the Nonutility Money Pool;

xi. Intra-system financings through Ventures, Genco, and Delivery;

xii. Payment of dividends out of capital or unearned surplus by the Nonutility Subsidiaries;

xiii. Payment of dividends out of capital up to $500 million by Exelon and ComEd;

xiv. Use of up to $7.0 billion of financings for investments in EWGs and FUCOs;

xv. Payment of dividends out of capital by ComEd of Indiana; and

xvi. Authorization for Genco to become obligated for certain pollution control obligations of PECO and ComEd.

IV. Parameters for Financing Authorization

Applicants request authorization to engage in certain financing transactions during the Authorization Period for which the specific terms and conditions are not at this time known, and which may not be covered by rule 52, without further prior approval by the Commission. Applicants propose that the following general terms will be applicable where appropriate to the financing transactions requested ("Financing Parameters"):

A. Effective Cost of Money on Financings

The effective cost of money on long-term debt of any series will not exceed at the time of issuance the greater of (i) 700 basis points over the yield to maturity of a U.S. treasury security ("Treasury Security") having a remaining term approximately equal to the term of the series of long-term debt or (ii) a gross spread over a Treasury Security that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The dividend or distribution rate on any series of preferred stock and other forms of Preferred Securities or Equity Linked Securities will not exceed at the time of issuance the greater of (i) 700 basis points over the yield to maturity of a Treasury Security having a remaining term equal to the term of such series or (ii) a rate that is consistent with similar securities of comparable credit quality and maturities (or perpetual preferred stock) issued by other companies. The effective cost of money on short-term debt will not exceed the greater of (i) 700 basis points over the comparable term London Interbank Offered Rate ("LIBOR") or (ii) a gross spread over LIBOR that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

B. Maturity

Applicants state that the maturity of indebtedness will not exceed 50 years. Preferred stock, Preferred Securities and Equity Linked Securities (other than perpetual preferred stock) will be redeemed no later than 50 years after issuance, unless converted into common stock.

C. Issuance Expenses

Applicants state that the underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of securities under authority granted in this Application will not exceed 7% of the principal or total amount of the securities being issued.

[2] Applicants state that because Genco is a wholly owned Pennsylvania limited liability company, it does not have "common stock" but rather has Member Interests in accordance with Pennsylvania Limited Liability Company Law. Applicants state that the rights attendant to the Member Interests are equivalent to the rights of common stockholders.

D. Use of Proceeds

Applicants state that the proceeds from the issuance or sale of securities in external financing transactions will be used for general corporate purposes including (i) the financing, in part, of the capital expenditures of the Exelon system; (ii) the financing of working capital requirements of the Exelon system; (iii) the acquisition, retirement, or redemption under rule 42 of securities previously issued by Exelon or its Subsidiaries or as otherwise authorized by the Commission; (iv) direct or indirect investment in companies authorized under the Act or by rule (including EWGs or FUCOs) or in a separate proceeding; (v) effecting a stock split of Exelon common stock; and (vi) other lawful purposes.

Applicants represent that no financing proceeds will be used to acquire a new subsidiary unless the financing is consummated in accordance with an order of the Commission or an available exemption under the Act.

E. Common Equity Ratio

Applicants state that, at all times during the Authorization Period, Exelon, the Utility Subsidiaries, Ventures, and Delivery will each maintain common equity (as reflected in the most recent Form 10–K or Form 10–Q filed with the Commission adjusted to reflect changes in capitalization since the balance sheet date therein) of at least 30% of its consolidated capitalization (common equity, minority interests, preferred stock, short-term debt and long-term debt, excluding securitization obligations, referred to as "Consolidated Capitalization") ("30% Condition"); provided that Exelon will in any event be authorized to issue common stock (including through a dividend reinvestment or employee benefit plans or by way of stock split), to the extent otherwise authorized in this Application.

Applicants state that although PECO has common equity of greater than 30% of Consolidated Capitalization, Applicants note that the Commission in the Prior Orders found that PECO would work to continue to improve its equity ratio as securitization bonds are paid down. Applicants state that they continue to expect PECO's common equity ratio will improve as the securitization bonds are paid down and as Exelon settles the Receivable Contribution (defined below) and that PECO will reach a level of common equity of at least 30% of capitalization by December 31, 2010 (at which time all securitization bonds are expected to be retired and therefore will not be a consideration in the calculation).

Applicants propose that Consolidated Capitalization exclude the impact of securitization bonds outstanding for the benefit of ComEd and PECO in determining compliance with the Commission's 30% test applicable to Exelon, ComEd, and PECO. Applicants state that all securitization bonds are rated "AAA" and have dedicated revenue streams approved by the applicable state commission ensuring that they will be timely paid.

Applicants request that the Commission reserve jurisdiction over the issuance of securities in those circumstances where Exelon, ComEd, PECO, or Genco do not comply with the common equity criteria of 30% of Consolidated Capitalization pending completion of the record.

F. Investment Grade Ratings

Applicants further represent that apart from securities issued for the purpose of funding money pool operations, no guarantees, Member Interests, or other securities, other than common stock, may be issued in reliance upon the authorization to be granted by the Commission under this Application, unless (i) the security to be issued, if rated, is rated investment grade; (ii) all outstanding securities of the issuer that are rated, are rated investment grade; and (iii) all outstanding securities of the top level registered holding company, that are rated, are rated investment grade ("Investment Grade Condition"). For purposes of this Investment Grade Condition, a security will be deemed to be rated "investment grade" if it is rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3–1 under the Securities Exchange Act of 1934, as amended.

Additionally, Applicants request that the Commission reserve jurisdiction over the issuance at any time of securities that the Investment Grade Condition is not satisfied.

V. Financial Condition

Applicants state that the Exelon system's ratings as of September 2003 from Standard & Poor's, Moody's, and Fitch are as follows:

Company and type of rating	S&P	Moody's	Fitch
Exelon:			
Corporate	A–	N/A	N/A
Unsecured	BBB+	Baa2	BBB+
Commercial Paper	A–2	P–2	F2
ComEd:			
Secured	A–	A3	A–
Unsecured	BBB+	Baa1	BBB+
Preferred Stock/Trust Securities	BBB	baa3	BBB
Commercial Paper	A–2	P–2	F2
Transitional Trust Notes	AAA	Aaa	AAA
PECO:			
Secured	A	A2	A
Unsecured	BBB+	A3	A–
Preferred Stock	BBB	baa2	BBB+
Trust Securities	BBB	baa1	BBB+
Commercial Paper	A–2	P–1	F1
Transitional Trust Notes	AAA	Aaa	AAA
Genco:			
Corporate	A–	Baa1	
Unsecured	A–	Baa1	BBB+
Commercial Paper	A2	P–2	F2

Applicants state that at September 30, 2003, Exelon's consolidated common equity as a percentage of Consolidated Capitalization was 45.94%. Applicants also state that the Utility Subsidiaries Consolidated Capitalization are as follows: PECO's common equity is 34.25% of Consolidated Capitalization; ComEd's common equity is 47.28% of Consolidated Capitalization; and Genco's common equity is 50.98% of Consolidated Capitalization.

Applicants state that concurrent with the Restructuring, effective January 1, 2001, Exelon transferred assets out of PECO as a reduction of "common stock" (*i.e.*, paid in capital) and contributed to PECO a $2.0 billion receivable, payable by Exelon, for the purpose of funding future tax payments resulting from collection of competitive transition charges ("Receivable Contribution"). Applicants state that the Receivable Contribution was reflected as an increase to common stock on the PECO balance sheets. However, instead of the offsetting entry being an asset, in accordance with the Commission's Staff Accounting Bulletin 4.G., the Receivable Contribution was recorded as a negative adjustment to shareholders' equity identified as "Receivable from Parent" in the PECO balance sheets. The amount of the increase in common stock was equal to the amount of the reduction in shareholder's equity attributed to the Receivable from Parent. The combined effects of the three entries (reduction of common stock for transfer of assets, increase in common stock for the Receivable Contribution and decrease in common stock for the Receivable Contribution) is to reduce PECO's common equity, as a percentage of total capitalization calculated in accordance with generally accepted accounting principles ("GAAP"). The effect of the Receivable Contribution is included, however, in the 34.25% ratio.

Applicants state that the Receivable Contribution at September 30, 2003 of $1,661 million is non-interest bearing. Applicants state that as Exelon makes future contributions to PECO in respect of the Receivable Contribution through 2010 in conjunction with the payment of the taxes resulting from the collection of competitive transition charges, and assuming that PECO achieves its projected levels of earnings and pays the projected level of dividends, the reduction in stockholders' equity will reverse, resulting in increases in overall stockholders' equity and increases in the proportion of common stock in total capitalization of PECO.

Applicants state that excluding the effect of the Receivable Contribution and excluding securitization debt from PECO's capitalization, the equity component of PECO capitalization (calculated in the same manner as Consolidated Capitalization) at September 30, 2003 would be 60.49%. Applicants further state that excluding the effect of the Receivable Contribution and including securitization debt in capitalization, the equity component of PECO capitalization at September 30, 2003 would be 30.79%. Applicants state that PECO continues to expect that its common equity ratio calculated according to GAAP will improve as the securitization bonds are paid down and as Exelon settles the Receivable Contribution and that PECO will reach a level of common equity of at least 30% of capitalization by December 31, 2010 (at which time all securitization bonds are expected to be retired and therefore will not be a consideration in the calculation).

VI. Description of Specific Types of Financing

A. Exelon External Financing

Exelon requests authorization to obtain funds externally through sales of common stock, preferred stock, Preferred Securities, Equity Linked Securities, long-term debt, and short-term debt securities not to exceed the $8.0 billion External Limit. With respect to common stock, Exelon also requests authority to issue common stock to third parties in consideration for the acquisition by Exelon or a Nonutility Subsidiary of equity or debt securities of a company being acquired under an exemption under the Act or specific authorization by another Commission order. In addition, Exelon seeks the flexibility to enter into certain hedging transactions to manage interest rate or price risk.

B. Common Stock

Exelon requests authority to sell common stock in any one of the following ways: (i) Through underwriters or dealers; (ii) through agents; (iii) directly to a limited number of purchasers or a single purchaser; or (iv) directly to employees (or to trusts established for their benefit), shareholders and others. Applicants request that issuances of common stock under Exelon's employee benefit plans and stock purchase and dividend reinvestment plans not count towards the External Limit. Applicants state that if underwriters are used in the sale of the securities, these securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The securities may be offered to the public either through underwriting syndicates (which may be represented by a managing underwriter or underwriters designated by Exelon) or directly by one or more underwriters acting alone. Exelon also states that the securities may be sold directly by Exelon or through agents designated by Exelon from time to time. If dealers are utilized in the sale of any of the securities, Exelon will sell securities to the dealers as principals. Any dealer may then resell such securities to the public at varying prices to be determined by such dealer at the time of resale. If common stock is being sold in an underwritten offering, Exelon may grant the underwriters thereof a "green shoe" option permitting the purchase from Exelon at the same price of additional shares then being offered solely for the purpose of covering over-allotments. Public distributions may be pursuant to private negotiation with underwriters, dealers or agents as discussed above or effected through competitive bidding among underwriters. In addition, Exelon requests that sales may be made through private placements or other non-public offerings to one or more persons. All common stock sales will be with terms and conditions, at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets.

1. Acquisitions

Exelon requests authority to issue its common stock in exchange for the acquisition of the securities of companies engaged in "energy-related businesses" as described in rule 58, exempt telecommunications companies ("ETCs"), as defined in section 34 of the Act, EWGs, and FUCOs or companies whose acquisition is exempt under the Act or authorized in this Application or another filing. Exelon states that certain tax benefits arise out of using common stock for these purchases. The Exelon common stock to be exchanged may be purchased on the open market under rule 42, or may be original issue. Original issue stock may be registered under the Securities Act of 1933, as amended ("1933 Act"), but at present Exelon expects that the common stock would not be registered and the common stock acquired by the third parties would be subject to resale restrictions under Rule 144 under the 1933 Act. Exelon states that the common stock would be valued at market value based upon the closing price on the day prior to the date of

issuance (or, if appropriate, the date of a binding contract providing for the issuance of the common stock) or based upon average high and low prices for a period as negotiated by the parties.

2. Stock Split

Applicants further request that Exelon issue its common stock to effect any stock split (which may include a stock split in the form of a stock dividend) approved by its board of directors. In a stock split, shareholders would receive additional shares of common stock in respect of their existing shares (for example, each holder may receive one additional share for each share held in a so called "2 for 1" stock split). Applicants state that the stock split will not increase the equity of the issuer, as no consideration is paid by shareholders, and does not affect any shareholder's proportionate interest in the issuer. Because an increased number of shares will be outstanding after a stock split, the stock's market price normally will reduce to reflect the split (for example in a 2 for 1 split, the price would be expected to fall to one-half the pre-split price). Applicant state that the stock split will be accomplished in accordance with Pennsylvania Business Corporation Act under which Exelon is organized.

Applicants state that Exelon expects to amend its articles of incorporation to effect a stock split and/or increase the number of authorized shares of common stock that may be outstanding in order to accommodate planned and future stock splits. Pennsylvania law, under which Exelon is incorporated, allows a corporation to amend its charter without shareholder vote to effect a stock split and to increase the number of authorized shares to accommodate stock splits. Accordingly, Exelon states that it will not be soliciting shareholders in connection with such amendment to its articles or in connection with declaring or effectuating any stock split and therefore is not seeking any approval under section 12 of the Act or rules 60 through 62 for a solicitation.

Exelon seeks authority to issue an indeterminate number of shares of common stock to effectuate any stock split (including a stock split in the form of a stock dividend), a reclassification of shares or other method permitted by law to effectuate the stock split. Because a stock split does not involve payment of consideration to the issuer or change the dollar value of an issuer's capitalization, Exelon proposes that any stock split will not count towards any limitation on the issuance of securities imposed in this Application.

C. Preferred Stock, Preferred Securities, and Equity Linked Securities

Exelon requests authority to issue preferred stock and to issue directly or indirectly through one or more Financing Subsidiaries (as defined below) preferred securities, including, specifically, trust preferred securities, or monthly income preferred securities ("Preferred Securities") and to issue equity linked securities, including units consisting of a combination of incorporated options, warrants and/or forward equity purchase contracts with debt, preferred stock, or Preferred Securities ("Equity Linked Securities"). Equity Linked Securities will be exercisable or exchangeable for or convertible, either mandatorily or at the option of the holder, into common stock or indebtedness or allow the holder to surrender to the issuer or apply the value of a security issued by the Applicant as approved by the Commission to such holder's obligation to make a payment on another security of Applicant issued as permitted by the Commission.[3] Any convertible or Equity Linked Securities will be convertible into or linked to only securities that Exelon and its Subsidiaries are otherwise authorized to issue under rule or Commission order. Applicants state that any refunding or replacement of securities where capitalization is not increased from that in place at September 30, 2003 will be through the issuance of securities of the type authorized in this Application.

Applicants state that Equity Linked Securities may combine a security with a fixed obligation (*e.g.*, preferred stock, Preferred Securities or debt) with a conversion or exchange feature that is exercisable (often mandatorily) within a relatively short period (*e.g.*, three to six years after issuance). These instruments may also be tax advantaged. Applicants state that an Equity-Linked Security may offer a means to raise capital at a lower overall economic or after-tax cost than other types of long-term securities, in that the fixed obligation component may have a lower after-tax cost than straight preferred stock and all or a portion of the interest or dividends paid may be tax deductible or lock in prices at which investors are obligated to purchase common stock or other securities at a future date. From an economic standpoint, these types of securities also generally carry a lower cost than common equity. Preferred Securities may be issued in one or more series with such rights, preferences, and priorities as may be designated in the instrument creating each series. Applicants state that dividends or distributions on Preferred Securities will be made periodically and to the extent funds are legally available for that purpose, but may be made subject to terms that allow the issuer to defer dividend payments or distributions for specified periods. Preferred Securities may be convertible or exchangeable into shares of common stock or other indebtedness and may be issued in the form of shares or units. Preferred stock, Preferred Securities and Equity Linked Securities may be sold directly or indirectly through underwriters or dealers or in connection with an acquisition in the same manner as that described for common stock in item VI. B. 1. above.

D. Long-Term Debt

Exelon requests authority to issue unsecured, long-term debt securities in an aggregate principal amount not to exceed the $8.0 billion External Limit outstanding at any time during the Authorization Period. At September 30, 2003 Exelon had $15.147 billion of consolidated long-term debt obligations outstanding. Any refunding or replacement of securities where capitalization is not increased will be through the issuance of securities authorized in this Application.

Long-term debt securities may be comprised of bonds, notes, medium-term notes, or debentures or subordinated debentures under one or more indentures ("Exelon Indenture") or long-term indebtedness under agreements with banks or other institutional lenders. Applicants state that any long-term debt security would have a designation, aggregate principal amount, maturity, interest rate(s) or methods of determining the same, terms of payment of interest, and other terms and conditions as Exelon may determine at the time of issuance. Any long-term debt (i) may be convertible into any other securities of Exelon; (ii) will have maturities ranging from one to 50 years; (iii) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at various premiums above the principal amount thereof; (iv) may be entitled to mandatory or optional sinking fund provisions; (v) may provide for reset of the coupon pursuant to a remarketing arrangement; (vi) may be subject to tender to the issuer for repurchase or be subject to the obligation of the issuer to repurchase at

[3] Applicants state for example, an Applicant may issue common stock or common stock warrants linked with debt securities. The holder will be obligated to pay to the issuer an additional amount of consideration at a specified date for the common stock but is authorized to surrender the linked debt security to or for the benefit of the issuer in lieu of the cash payment.

the election of the holder or upon the occurrence of a specified event; (vii) may be called from existing investors by a third party; (viii) may be subject to subordination provisions; and (ix) may be entitled to the benefit of positive or negative financial or other covenants. Applicants state that the maturity dates, interest rates, redemption and sinking fund provisions, tender or repurchase and conversion features, if any, with respect to the long-term securities of a particular series, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding.

Borrowings from banks and other financial institutions will be *pari passu* with debt securities issued under the Exelon Indenture (other than subordinated debentures) and the short-term credit facilities (as described below). Applicants state that specific terms of any borrowings will continue to be determined by Exelon at the time of issuance and will comply in all regards with the Financing Parameters.

E. Short-Term Debt

Exelon requests authority to issue and have outstanding at any one time during the Authorization Period unsecured, short-term debt securities in an aggregate principal amount outstanding at any time, when combined with issuances of common stock (other than for benefit plans or stock purchase and dividend reinvestment plans and other than for refunding or replacement of securities where capitalization is not increased as a result thereof from that in place September 30, 2003 (*i.e.*, $23.883 billion)) under this Application and when combined with issuances of preferred stock, Preferred Securities and Equity Linked Securities and long-term debt, as described in this section not to exceed $8 billion.

Short-term debt may include institutional borrowings, commercial paper or bid notes and short-term debt issued under the Exelon Indenture or otherwise. Exelon proposes to sell commercial paper, from time to time, in established domestic commercial paper markets. Commercial paper would be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. Exelon states that it expects that the dealers acquiring commercial paper from Exelon will re-offer this paper at a discount to corporate and institutional investors. Institutional investors are expected to include commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities, and finance companies.

Exelon proposes, without counting against the limit set forth above, to maintain back-up lines of credit or credit facilities in connection with a commercial paper program in an aggregate amount not to exceed the amount of authorized commercial paper.

Exelon proposes that credit lines or credit facilities may be set up for use by Exelon for general corporate purposes in addition to credit lines or credit facilities to support commercial paper as described in this subsection. Exelon will borrow and repay under the lines of credit or credit facilities, from time to time, as it is deemed appropriate or necessary.

F. Financing Risk Management Devices

1. Interest Rate Risk

Exelon requests authority to enter into, perform, purchase and sell financial instruments intended to reduce or manage the volatility of interest rates, including but not limited to interest rate swaps, caps, floors, collars and forward agreements. Hedges may also include issuance of structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury or U.S. governmental agency (*e.g.*, Fannie Mae) obligations or LIBOR based swap instruments (collectively, "Hedge Instruments"). The transactions would be for fixed periods and stated notional amounts. Exelon would employ interest rate derivatives as a means of prudently managing the risk associated with any of its outstanding debt issued under this authorization or an applicable exemption by, in effect, synthetically (i) converting variable rate debt to fixed rate debt; (ii) converting fixed rate debt to variable rate debt and; (iii) limiting the impact of changes in interest rates resulting from variable rate debt. In no case will the notional principal amount of any interest rate swap exceed the face value of the underlying debt instrument and related interest rate exposure. Exelon states that because transactions will be entered into for a fixed or determinable period, that it will not engage in speculative transactions. Exelon states that it will only enter into agreements with counterparties ("Approved Counterparties") whose senior debt ratings, as published by a national recognized rating agency, are greater than or equal to "BBB," or an equivalent rating.

2. Anticipatory Hedges

Exelon also requests authorization to enter into interest rate hedging transactions with respect to anticipated debt offerings ("Anticipatory Hedges"), subject to certain limitations and restrictions. Exelon states that Anticipatory Hedges would only be entered into with Approved Counterparties, and would be utilized to fix and/or limit the interest rate risk associated with any new issuance through (i) a forward sale of exchange-traded Hedge Instruments ("Forward Sale"); (ii) the purchase of put options on Hedge Instruments ("Put Options Purchase"); (iii) a Put Options Purchase in combination with the sale of call options Hedge Instruments ("Zero Cost Collar"); (iv) transactions involving the purchase or sale, including short sales, of Hedge Instruments; or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to, structured notes, caps and collars, appropriate for the Anticipatory Hedges. Exelon states that Anticipatory Hedges may be executed on-exchange ("On-Exchange Trades") with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade ("CBOT"), the opening of over-the-counter positions with one or more counterparties ("Off-Exchange Trades"), or a combination of On-Exchange Trades and Off-Exchange Trades. Exelon or the appropriate Subsidiary will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. Exelon or the appropriate Subsidiary may decide to lock in interest rates and/or limit its exposure to interest rate increases.

G. Accounting Standards

Exelon states that it will comply with Statement of Financial Accounting Standards ("SFAS") 133 ("Accounting for Derivative Instruments and Hedging Activities"), SFAS 138 ("Accounting for Certain Derivative Instruments and Certain Hedging Activities") or other standards relating to accounting for derivative transactions as are adopted and implemented by the Financial Accounting Standards Board ("FASB"). Exelon states that Hedge Instruments and Anticipatory Hedges will qualify for hedge accounting treatment under the current FASB standards in effect and as determined at the date Hedge Instruments or Anticipatory Hedges are entered into.

VII. Financing Subsidiaries

Exelon and the Subsidiaries request authority to acquire, directly or indirectly, the equity securities of one or more corporations, trusts, partnerships or other entities ("Financing Subsidiaries")[4] created specifically for the purpose of facilitating the financing of authorized and exempt activities (including exempt and authorized acquisitions) of Exelon and the Subsidiaries. Applicants propose that the Financing Subsidiaries issue long-term debt, Preferred Securities, or Equity Linked Securities to third parties and transfer the proceeds of these financings to Exelon or a Subsidiary. Exelon or a Subsidiary requests authority, if required, to guarantee or enter into support, servicing, or expense agreements ("Expense Agreements") with respect to the obligations of Financing Subsidiaries. Applicants state that under an Expense Agreement, Exelon or a Subsidiary would agree to provide financial support and pay necessary operating expenses of the Financing Subsidiary in order to facilitate the Financing Subsidiaries' agreements with third parties in connection with the Financing Subsidiaries' financing activities approved in this Application. Applicants request authority for the Financing Subsidiaries to pledge revenues or other assets or grant security interests solely to accommodate the intra-system mirror structure of the financings approved in this Application; provided the security will not consist of the assets (other than an income stream in support of the financing) or stock of any operating subsidiary of Exelon. Subsidiaries may also provide guarantees and enter into Expense Agreements, if required, on behalf of Financing Subsidiaries under rules 45(b)(7) and 52, as applicable.

Exelon and the Subsidiaries also request authority to issue and sell to any Financing Subsidiary, from time to time in one or more series, unsecured debentures, unsecured promissory notes, or other unsecured debt instruments ("Notes"). Applicants further request authority for the Financing Subsidiaries to apply the proceeds of any external financing by a Financing Subsidiary plus the amount of any equity contribution made to it from time to time by its parent corporation and other funds that may be available to a Financing Subsidiary in accordance with the authority requested in this Application or obtained in an exempt financing transaction to purchase Notes. The terms (*e.g.*, interest rate, maturity, amortization, prepayment terms, default provisions, etc.) of the Notes would be designed to parallel the terms of the securities issued by the Financing Subsidiary to which the Notes relate.

Any amounts issued by Financing Subsidiaries to third parties will be included in the External Limit authorized for the immediate parent of the Financing Subsidiaries. However, Applicants request that the underlying intra-system mirror debt (including Notes) and parent guarantee shall not be so included so as to avoid double counting.

In cases where it is necessary or desirable to ensure legal separation for purposes of isolating a Financing Subsidiary from its parent or another Subsidiary for bankruptcy purposes, the ratings agencies require that any Expense Agreement whereby the parent or Subsidiary provides services related to the financing to the Financing Subsidiary be at a market price so that a successor service provider could assume the duties of the parent or Subsidiary in the event of the bankruptcy of the parent or Subsidiary without interruption or an increase of fees. Therefore Applicants seek approval under section 13(b) of the Act and rules 87 and 90 to provide the services described in this paragraph at a market price but only for so long as the Expense Agreement established by the Financing Subsidiary is in place.

VIII. Utility Subsidiary Financing

A. ComEd and PECO Short-Term Debt

Authority is requested for ComEd and PECO to each issue unsecured short-term debt, including commercial paper and borrowings under credit lines and credit facilities, in the aggregate amount of $2.7 billion to be outstanding at any one time during the Authorization Period ("Utility Short-Term Debt Limit"). Applicants state that the Utility Short-Term Debt Limit is not included in the aggregate amount of the External Limit.

ComEd and PECO request authority to sell commercial paper, from time to time, in established domestic commercial paper markets. Commercial paper would be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. It is expected that the dealers acquiring commercial paper from ComEd or PECO will re-offer such paper at a discount to corporate and institutional investors. Institutional investors are expected to include commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities and finance companies.

ComEd and PECO propose to maintain back up lines of credit in an aggregate amount not to exceed the amount of authorized commercial paper and request that these back up lines of credit or credit facilities not count against the Utility Short-Term Debt Limit. ComEd and PECO request authority to borrow and repay under lines of credit set up for general corporate purposes, from time to time, as it is deemed appropriate or necessary. Subject to the limitations described herein, ComEd and PECO may each engage in other types of short-term financings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

B. Genco Securities

Applicants state that although Genco is an "electric utility company" under the Act, it is not subject to the jurisdiction of any state commission in connection with the issuance of securities and therefore, all securities issuances for Genco will require approval of the Commission.

Applicants state that the aggregate amount of financing obtained by Genco during the Authorization Period, from issuance and sale of Member Interests, preferred equity interests, Preferred Securities, Equity Linked Securities, long-term debt and short-term debt, as described in this section, and other than for refunding or replacement of securities where capitalization is not increased as a result thereof from that in place at September 30, 2003 (*i.e.*, $5.790 billion), shall not exceed the $8 billion External Limit. Any refunding or replacement of securities where capitalization is not increased from that in place at September 30, 2003 will be through the issuance of securities authorized in this Application.

Any issuance of securities by Genco to unrelated third parties under this authorization will reduce, dollar for dollar, the remaining financing authority available to Exelon; provided that issuances to Genco's parent companies reflecting intra-company transactions shall not reduce the authority available to Exelon except to the extent Exelon has issued securities to fund such transactions. Likewise, issuances by Genco related solely to intra-company transactions with its Subsidiaries will not count against Genco's limits to the extent subject to

[4] Applicants propose that existing Financing Subsidiaries be included in the definition of Financing Subsidiaries.

and counted against another financing limit of this authorization.

Applicants state that the manner of sale and other terms for issuances by Genco will be the same as the applicable terms for equivalent securities of Exelon. Applicants state that the specific terms of any securities will be determined by Genco at the time of issuance and will comply in all regards with the Financing Parameters.

Genco proposes that preferred equity interests, Preferred Securities and Equity Linked Securities may be issued in one or more series with such rights, preferences, and priorities as may be designated in the instrument creating each series, as determined in accordance with Genco's governing documents.

Genco proposes that long-term debt securities would be comprised of unsecured bonds, notes, medium-term notes or debentures under one or more indentures ("Genco Indenture") (other than subordinated debentures) or unsecured long-term indebtedness under agreements with banks or other institutional lenders. Borrowings from the banks and other financial institutions or other institutional lenders will be unsecured and rank *pari passu* with debt securities issued under the Genco Indenture and the short-term credit facilities (as described below).

Genco requests authority to issue commercial paper and establish unsecured credit lines or credit facilities. Applicants state that commercial paper would be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. It is expected that the dealers acquiring commercial paper from Exelon will re-offer the paper at a discount to corporate and institutional investors. Institutional investors are expected to include commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities, and finance companies.

Genco proposes to set up credit lines or credit facilities used for general corporate purposes in addition to credit lines to support commercial paper as described in this subsection. Genco states that it will borrow and repay under such lines of credit or credit facilities, from time to time, as it is deemed appropriate or necessary. Subject to the Financing Parameters, Genco may engage in other types of unsecured short-term financings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

C. Financing Risk Management Devices

To the extent not exempt under rule 52, ComEd, PECO, and Genco also request authority to enter into Hedge Instruments and Anticipatory Hedges of the same type and under the same conditions as are requested above by Exelon.

IX. Guarantees and Intra-System Advances

Applicants request authority for Exelon and Genco to enter into guarantees, obtain letters of credit, enter into Expense Agreements or otherwise provide credit support with respect to the obligations of its Subsidiaries and non-affiliated third parties in the ordinary course of business ("Guarantees") in an amount, together with the Nonutility Guarantees and the Utility Guarantees (each defined below), in an aggregate principal amount not to exceed $6.0 billion outstanding at any one time, excluding obligations exempt under rules 45 and 52, or Guarantees previously authorized under the Prior Orders ("Guarantee Limit").[5] Applicants state that the Guarantee Limit includes Guarantees and other credit support mechanisms by Exelon, Genco, or other Subsidiaries that were previously issued and were outstanding at September 30, 2003 in the amount of $1.913 billion.

Exelon or Genco, as the case may be, proposes to charge each Subsidiary a fee for each Guarantee provided on its behalf that is not greater than the cost, if any, of obtaining the liquidity necessary to perform the Guarantee for the period of time the Guarantee remains outstanding ("Guarantee Fee"). Applicants request that any guarantees or other credit support arrangements outstanding at the end of the Authorization Period will continue until expiration or termination in accordance with their terms.

Applicants request that this Guarantee authority include the ability to guarantee debt. Applicants state that the debt guaranteed will comply with the Financing Parameters or be exempt.

Applicants further request authorization for the Nonutility Subsidiaries to enter into Guarantees with respect to other Nonutility Subsidiaries and non-affiliated third parties in the ordinary course of their business ("Nonutility Guarantees"), in addition to Guarantees that are exempt under rules 45(b) and 52. Applicants state that Nonutility Guarantees will count towards the Guarantee Limit. Applicants propose that the Nonutility Subsidiary providing any credit support may charge its associate company a Guarantee Fee.

Applicants also request authorization for the Utility Subsidiaries to enter into Guarantees with respect to their direct and indirect Subsidiaries or Nonutility Subsidiaries and non-affiliated third parties ("Utility Guarantees"), in addition to Guarantees that are exempt under rules 45(b) and 52. Applicants state that Utility Guarantees will count against the aggregate Guarantee Limit. The Utility Subsidiary providing credit support may charge its associate company a Guarantee Fee.

Applicants state that certain Guarantees may be in support of the obligations which are not capable of exact quantification. In such cases, Applicants state that they will determine the exposure under the Guarantee for purposes of measuring compliance with the applicable limitation by appropriate means including estimation of exposure based on loss experience or projected potential payment amounts. If appropriate, Applicants state that these estimates will be made in accordance with GAAP and this estimation will be reevaluated periodically.

Applicants request authority to Guarantee the obligations of unrelated third parties ("Third Party Guarantees"). From time to time it is appropriate for Exelon or one of its Subsidiaries to guarantee, as part of their normal business activities, the obligations of a third party with whom Exelon or the Subsidiary has a business relationship. For example, in the case of a sale of a Subsidiary to a third party, the buyer may request that Exelon or a Subsidiary guarantee obligations of the sold Subsidiary to its lenders or other counterparties for an interim period. As another example, when Exelon's predecessor company Unicom was involved in the startup of the Midwest Independent System Operator ("MISO"), Unicom issued a Guarantee of certain interim, pre-startup debt of the MISO. Third Party Guarantees will be Guarantees only of long or short-term indebtedness or Guarantees of performance of contractual obligations of such third parties with whom Exelon has, or had, a business relationship.

[5] Applicants state that these include the guarantee by Exelon of a 12 year promissory note issued by Unicom Investment, Inc. to ComEd for $2.5 billion under an intercompany agreement relating to the sale of certain fossil generating stations by ComEd ("UII Note"). The UII Note payable by Unicom Investment, Inc., to ComEd, will remain outstanding until terminated in accordance with their terms or agreement of the parties. As of December 31, 2003, there is approximately $1.1 billion outstanding under the UII Note and the corresponding guarantee.

X. Dividend Reinvestment Plan and Employee Plans

Exelon proposes, from time to time during the Authorization Period, to issue and/or acquire in open market transactions, or by some other method which complies with applicable law and Commission interpretations then in effect, up to 21 million shares of Exelon common stock under Exelon's dividend reinvestment plan, employee stock ownership plan, certain incentive compensation plans and certain other employee benefit plans described below ("Plans"). Under the Prior Orders Exelon had authority to issue 21 million shares with respect to Plans through March 31, 2004. Through September 30, 2003, Exelon issued 7.986 million shares under this authority.

XI. Authorization and Operation of the Money Pools

Applicants request authority for Exelon to contribute surplus funds and to lend and extend credit to (i) the Utility Subsidiaries through the Utility Money Pool and (ii) the Nonutility Subsidiaries through the Nonutility Money Pool. Exelon will not be a borrower from either the Utility Money Pool or the Nonutility Money Pool.

A. Utility Money Pool

Exelon and the Utility Subsidiaries request authorization to conduct the Utility Money Pool as approved in the Prior Orders, and the Utility Subsidiaries, to the extent not exempted by rule 52, and Exelon Business Services also request authorization to make, from time to time, unsecured short-term borrowings from the Utility Money Pool, to contribute surplus funds to the Utility Money Pool, and to lend and extend credit to (and, if applicable, acquire promissory notes from) one another through the Utility Money Pool. In addition, Applicants request authority for Unicom Investments, Inc. ("UII") to participate in the Utility Money Pool as a lender to the Utility Money Pool, but not as a borrower from the Utility Money Pool. Applicants state that UII was established to invest the proceeds and facilitate a like-kind exchange in connection with ComEd's 1999 sale of several fossil-generation plants. Applicants state that by order dated August 3, 1999 in Docket Nos. 99–0273 and 99–0282, the Illinois Commerce Commission approved that transaction, including UII's role therein. To enable UII to transfer, for use in furthering the business interests of the Utility Subsidiaries, idle cash that might otherwise be trapped at UII, Applicants request that UII be authorized to participate in Exelon's Utility Money Pool. Applicants state that UII would participate only as a lender to and not as a borrower from the Utility Money Pool.

Applicants state that borrowings from the Utility Money Pool shall be subject to the following limitations during the Authorization Period:

Company	Limitation
ComEd and PECO	$2.7 billion [6]
Genco	$1.0 billion [7]
ComEd of Indiana	$15 million

[6] Applicants state that this is an aggregate limit applicable to ComEd and PECO and is also aggregated with the overall short-term limit for those companies requested herein (*i.e.*, this limit is included in and not in addition to the $2.7 billion short-term limit request for ComEd and PECO).

[7] Applicants state that this amount is included in, not in addition to, Genco's overall financing limit of $8 billion.

Applicants state that under the terms of the Utility Money Pool, short-term funds are made available from the following sources for short-term loans to the Utility Subsidiaries from time to time: (i) Surplus funds in the treasuries of Utility Money Pool participants other than Exelon; (ii) surplus funds in the treasury of Exelon ("Internal Funds"); and (iii) proceeds from bank borrowings or the sale of commercial paper by Exelon or the Utility Subsidiaries for loan to the Utility Money Pool ("External Funds"). Applicants state that funds would be made available from these sources in the order that Exelon Business Services, as administrator of the Utility Money Pool, determines to result in a lower cost of borrowing, consistent with the individual borrowing needs and financial standing of the companies providing funds to the pool. The determination of whether a Utility Money Pool participant at any time has surplus funds to lend to the Utility Money Pool or shall lend funds to the Utility Money Pool will be made by the participant's chief financial officer or treasurer, or by a designee thereof, on the basis of cash flow projections and other relevant factors, in such participant's sole discretion.

Utility Money Pool participants propose to borrow *pro rata* from each company that lends, in the proportion that the total amount loaned by each such lending company bears to the total amount then loaned through the Utility Money Pool. On any day when more than one fund source, with different rates of interest, is used to fund loans through the Utility Money Pool, each borrower borrows *pro rata* from each fund source in the Utility Money Pool in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Utility Money Pool.

Applicants state that borrowings from the Utility Money Pool require authorization by the borrower's chief financial officer or treasurer, or by a designee thereof. No party is required to effect a borrowing through the Utility Money Pool if it is determined that it could (and has authority to) effect a borrowing at lower cost directly from banks or through the sale of its own commercial paper. Applicants state that no loans through the Utility Money Pool will be made to, and no borrowings through the Utility Money Pool will be made by, Exelon.

Applicants state that the cost of compensating balances, if any, and fees paid to banks to maintain credit lines and accounts by Utility Money Pool participants lending External Funds to the Utility Money Pool are paid by the participant maintaining that credit line. Applicants state that a portion of the costs, or all of the costs in the event a Utility Money Pool participant establishes a line of credit solely for purposes of lending any External Funds obtained thereby into the Utility Money Pool, will be retroactively allocated every month to the companies borrowing these External Funds through the Utility Money Pool in proportion to their respective daily outstanding borrowings of these External Funds.

Applicants state that if only Internal Funds make up the funds available in the Utility Money Pool, the interest rate applicable and payable to or by Subsidiaries for all loans of such Internal Funds is the higher of the rate for high-grade unsecured 30-day commercial paper sold through dealers by major corporations as quoted in *The Wall Street Journal* or the rate then available to the lending company from an eligible investment in readily marketable money market funds or the existing short-term investment accounts maintained by the lender during the period in question. Applicants propose that providing for these alternatives ensures that the lending company does not forego any investment return that it could have obtained by investing in money market funds or other permitted short-term investments instead of the Utility Money Pool. In the event neither rate is one that is permissible for a transaction because of constraints imposed by the state regulatory commission having jurisdiction over the utility participating in the transaction, then the rate shall be a rate that is permissible for the transaction

determined under the requirements of that state regulatory commission.

If only External Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such External Funds will be equal to the lending company's cost for such External Funds (or, if more than one Utility Money Pool participant makes available External Funds on such day, the applicable interest rate will be a composite rate equal to the weighted average of the cost incurred by the respective Utility Money Pool participants for External Funds).

In cases where both Internal Funds and External Funds are concurrently borrowed through the Utility Money Pool, the rate applicable to all loans comprised of such "blended" funds is the composite rate equal to the weighted average of (i) the cost of all Internal Funds contributed by Utility Money Pool participants (as determined under the second-preceding paragraph above) and (ii) the cost of all such External Funds. In circumstances where Internal Funds and External Funds are available for loans through the Utility Money Pool, loans may be made exclusively from Internal Funds or External Funds, rather than from a "blend" of funds, to the extent it is expected that such loans would result in a lower cost of borrowings.

Funds not required by the Utility Money Pool to make loans (with the exception of funds required to satisfy the Utility Money Pool's liquidity requirements) are ordinarily invested in one or more short-term investments, including: (i) Interest-bearing accounts with banks; (ii) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (iii) obligations issued or guaranteed by any state or political subdivision thereof, provided that such obligations are rated not less than "A" by a nationally recognized rating agency; (iv) commercial paper rated not less than "A–1" or "P–1" or their equivalent by a nationally recognized rating agency; (v) money market funds; (vi) bank certificates of deposit; (vii) Eurodollar funds; (viii) short-term debt securities rated AA or above by Standard & Poor's, Aa or above by Moody's Investors Service, or AA or above by Fitch Ratings; (ix) short-term debt securities issued or guaranteed by an entity rated AA or above by Standard & Poor's, Aa or above by Moody's Investors Service, or AA or above by Fitch Ratings; and (x) other investments as are permitted by section 9(c) of the Act and rule 40 thereunder.

Applicants state that the interest income and investment income earned on loans and investments of surplus funds would be allocated among the participants in the Utility Money Pool in accordance with the proportion each participant's contribution of funds bears to the total amount of funds in the Utility Money Pool and the cost of funds provided to the Utility Money Pool by each participant.

Applicants state that each Applicant receiving a loan through the Utility Money Pool would be required to repay the principal amount of the loan, together with all interest accrued, on demand and in any event not later than one year after the date of the loan. All loans made through the Utility Money Pool may be prepaid by the borrower without premium or penalty.

B. Nonutility Money Pool

A separate Nonutility Money Pool among Exelon and certain Nonutility Subsidiary companies of Exelon was approved in the Prior Orders, however, Applicants state that Exelon has not established a Nonutility Money Pool. Applicants state that each Nonutility Subsidiary requests authority to participate in the Nonutility Money Pool.

Applicants state that the Nonutility Money Pool is operated on the same terms and conditions as set forth for the Utility Money Pool, except that Exelon funds made available to the Money Pools will be made available to the Utility Money Pool first to the extent it is operated and thereafter to the Nonutility Money Pool. No loans through the Nonutility Money Pool are made to, and no borrowings through the Nonutility Money Pool are made by, Exelon, Ventures, or Delivery.

C. Other Contributions to Money Pool

Applicants request that Nonutility Subsidiaries that are not currently participating in the Nonutility Money Pool and those that are acquired or formed in the future, ("Other Nonutility Subsidiaries") may lend funds to the Nonutility Money Pool without the need for additional authority from the Commission. Applicants request that the Commission reserve jurisdiction with respect to the participation (other than lending of funds) of Other Nonutility Subsidiaries in the Nonutility Money Pool upon completion of the record.

D. Operation of the Money Pools and Administrative Matters

Applicants propose that Exelon Business Services under the authority of the appropriate officers of the participating companies will continue to handle the operation of the Utility and Nonutility Money Pools, including recordkeeping and coordination of loans. Exelon Business Services administers the Utility and Nonutility Money Pools on an "at cost" basis and maintains separate records for each money pool. Applicants state that surplus funds of the Utility Money Pool and the Nonutility Money Pool may be combined in common short-term investments, but separate records of these funds are maintained by Exelon Business Services as administrator of the pools, and interest is separately allocated, on a daily basis, to each money pool in accordance with the proportion that the amount of each money pool's surplus funds bears to the total amount of surplus funds available for investment from both money pools.

XII. Borrowings by Ventures and Delivery

Applicants state that Ventures and Delivery are registered holding companies. Ventures is the parent of Enterprises, which holds Nonutility Subsidiaries, and is the parent of Genco. Delivery is the parent of Com Ed and PECO. Applicants state that Ventures and Delivery may have occasion to issue debt or equity securities to Exelon to acquire funds to purchase debt or equity securities of their respective subsidiaries to enable Exelon to add to the capitalization of those subsidiaries. Applicants state that no such issuance by Ventures or Delivery will increase the Exelon system's securities held by third-parties. If Exelon obtains funds to purchase such securities from an external source, Exelon's issuance of securities will be only as approved by the Commission's order in this docket and subject to the limitations imposed in such order, including the overall financing limitation of $8 billion. All securities issuances by the subsidiaries (*i.e.*, Genco and Enterprises, and PECO and ComEd) to Ventures and Delivery, respectively will be subject to limitations imposed on that company regarding securities issuances and will be within the dollar limitations imposed by the order in this docket, if any. Consequently, there is no need to impose a separate dollar limitation on these conduit securities issuances by Ventures and Delivery. Applicants state that the approval sought for Ventures and Delivery is merely to cover the technical requirement that all their securities issuances be approved even in the case where they are acting as a conduit to invest funds by Exelon in their subsidiaries.

XIII. Payment of Dividends

A. Payment of Dividends Out of Capital by Exelon and ComEd

In connection with the Merger, the Commission authorized each of Exelon and ComEd in the November Order to pay dividends out of additional paid-in capital up to the amount of $500 million. Applicants state that, subsequent to the Merger, Statement of Financial Accounting Standards ("SFAS") 141, "Business Combinations" and SFAS 142, "Goodwill and Other Intangible Assets," were issued in 2001. SFAS 142 eliminated the amortization of goodwill as was required previously and provides for an annual assessment to determine if goodwill amounts are impaired. Exelon and its Subsidiaries adopted these standards effective January 1, 2002, which resulted in a net write down of goodwill and a charge to income of $230 million net of taxes. If an analysis discloses an impairment, the company must take an impairment charge. Applicants state that Exelon has performed the analysis each year since 2002, which did not result in any further impairment charge to date.

Exelon and ComEd now request authorization, notwithstanding the above stated accounting changes, (i) to continue to pay dividends out of additional paid-in capital up to the amount of $500 million and (ii) with respect to current earnings before any deductions resulting from any impairment of either goodwill or other intangibles recognized as a result of the Merger. Applicants state that as of September 30, 2003, neither Exelon nor ComEd has paid any dividends out of additional paid-in capital. Applicants state that if all of the goodwill associated with the Merger were found to be impaired (*i.e.*, $4.734 billion at September 30, 2003), the *pro forma* common equity ratio of Exelon and ComEd would be 26.8% and 20.1%, respectively.[8] Applicants state that Exelon and ComEd believe that based on anticipated earnings and dividend levels, as well as estimated financings, that neither Exelon nor ComEd will have common equity ratios below 30% of Consolidated Capitalization as a result of any further impairment of goodwill.

[8] Applicants state that the *pro forma* common equity ratio of Exelon and ComEd would be 18.8% and 15.7%, respectively, including securitization obligations.

B. Payment of Dividends Out of Capital or Unearned Surplus by Nonutility Subsidiaries

Applicants state that there may be situations in which one or more of the Nonutility Subsidiaries will have unrestricted cash available for distribution in excess of current and retained earnings resulting from a disposition of assets, a restructuring or other accounting charge that eliminated retained earnings or its normal operations (excluding debt financing). Consistent with these considerations, Applicants request authorization for the current and future Nonutility Subsidiaries to pay dividends out of capital and unearned surplus, through the Authorization Period, provided, however, that, without further approval of the Commission, no Nonutility Subsidiary will declare or pay any dividend out of capital or unearned surplus if the Nonutility Subsidiary derives any material part of its revenues from the sale of goods, services or electricity to Utility Subsidiaries.

C. Payment of Dividends Out of Capital by ComEd of Indiana

As a result of "push down" accounting in the Merger, $11 million of the retained earnings of ComEd of Indiana were reclassified as paid in capital. Applicants state that ComEd of Indiana has not recorded any reductions to retained earnings because of operating losses or impairment charges. Applicants state that ComEd of Indiana has excess funds, including funds classified as paid in capital, and has lent funds to the Utility Money Pool so that these amounts might be used by the Utility Subsidiaries of Exelon rather than being trapped as idle cash at ComEd of Indiana. Applicants now request authority for ComEd of Indiana to pay dividends to its parent ComEd, from time to time through the Authorization Period, out of capital and unearned surplus to the extent permitted under state law up to $32 million provided that ComEd of Indiana's common equity ratio will not fall below 30% of Consolidated Capitalization. Applicants state that this authorization would allow the unneeded funds resulting from the events described in this paragraph at ComEd of Indiana to be permanently applied to ComEd's needs.

XIV. Changes of Capital Stock of Majority Owned Subsidiaries

Applicants state that the portion of an individual Subsidiary's aggregate financing to be effected through the sale of stock to Exelon or other immediate parent company during the Authorization Period under rule 52 and/or under an order issued under this filing cannot be ascertained at this time. Applicants state that it may happen that the proposed sale of capital securities (*i.e.*, common stock or preferred stock) may in some cases exceed the then authorized capital stock of the Subsidiary. In addition, the Subsidiary may choose to use capital stock with no par value. As needed to accommodate such proposed transactions and to provide for future issues, Applicants request authority to change the terms of any 50% or more owned Subsidiary's authorized capital stock capitalization or other equity interests by an amount deemed appropriate by Exelon or other intermediate parent company; provided that the consents of all other shareholders, if any, as required by law, have been obtained for the proposed change. This request for authorization is limited to Exelon's 50% or more owned Subsidiaries and will not affect the aggregate limits or other conditions contained herein. Applicants propose that a Subsidiary would be able to change the par value, or change between par value and no-par stock, or change the form of equity from common stock to limited partnership or limited liability company interests or similar instruments, or from these instruments to common stock, without additional Commission approval. Any such action by a Utility Subsidiary would be subject to and would only be taken upon the receipt of any necessary approvals by the state commission in the state or states where the Utility Subsidiary is incorporated and doing business. Applicants state that Exelon will be subject to all applicable laws regarding the fiduciary duty of fairness of a majority shareholder to minority shareholders in any 50% or more owned Subsidiary and will undertake to ensure that any change implemented under this paragraph comports with these legal requirements.

XV. Refinancing and/or Assumption of Pollution Control Obligations

In the Prior Orders, the Commission approved, the assumption by Genco of up to $369 million of pollution control obligations incurred by PECO in connection with generation facilities that would be transferred to Genco. The generation assets were transferred to Genco effective January 1, 2001. Through September 30, 2003, $363 million of the originally approved $369 million has been assumed by Genco.

Applicants now request that Genco assume all remaining outstanding pollution control obligations of PECO

and ComEd. At September 30, 2003, PECO had a total of $311 million of outstanding pollution control obligations and ComEd had $589 million, for a total of $900 million. In addition, all existing generating assets of ComEd were also transferred to Genco as of that date.

Applicants currently contemplate that only the remaining $6 million of the PECO obligations (of the originally approved $369 million) and none of the ComEd obligations will be transferred to or assumed by Genco. To maintain flexibility however, Exelon, PECO, ComEd and Genco seek authority for Genco to assume any, all or none of the obligations listed above. In any case where Genco legally assumes these obligations PECO or ComEd, as the case may be, will be released from liability. Whether or not the pollution control facilities constructed with the proceeds of these pollution control obligations are still in service or owned by Genco, the pollution control obligations are consistent with the businesses conducted by Genco. Whether or not the utility is released, any such transfer to or assumption by Genco will have no impact on Exelon's consolidated capitalization. Any such assumption and release will, however, have the effect of decreasing the portion of long-term debt in the capital structure of the transferring utility and will commensurately improve the common equity ratio of ComEd or PECO, as the case may be. In appropriate circumstances the transfer of additional pollution control obligations from PECO will enhance the equity component of its capitalization which will help offset the effects of the Receivable Contribution discussed above.

XVI. De-Registration of Genco and PECO

Applicants state that by March 31, 2004, the Conowingo Companies will have been converted into EWGs and will therefore no longer be public utility companies under the Act. As a result, Applicants state that Genco will no longer have any public utility company subsidiaries. One of the Conowingo Companies, PEPCO, owns another of the Conowingo Companies Susquehanna Power Company, previously a public utility company expected to be an EWG by March 31, 2004. As a result, Applicants state that PEPCO will no longer have any public utility company subsidiaries by March 31, 2004. Applicants request that Genco and PEPCO each be granted an order de-registering each company under section 5(d) of the Act.

XVII. EWG/FUCO Investment Authority Increase

Applicants state that under the Prior Orders, Exelon currently has authority to invest up to $4 billion in EWGs and FUCOs. Applicants state that at September 30, 2003, the consolidated amount of Exelon's aggregate investment in EWGs and FUCOs as that term is defined in rule 53 was $2.762 billion. At September 30, 2003, the average consolidated retained earnings (calculated as required by rule 53) of Exelon was $2.450 billion. Applicants state that the resulting permitted aggregate investment under rule 53 currently allowed is insufficient to meet Exelon's current investment level and business plans. Exelon has commitments of $377 million in connection with an additional EWG investment for AmerGen, which commitment was made on October 3, 2003. Accordingly, Applicants request that Exelon be allowed to invest up to $7.0 billion in EWGs and FUCOs.

Scottish Power plc, et al. (70–9669)

Scottish Power plc ("ScottishPower"), a foreign registered holding company, Scottish Power UK Holdings Limited ("SPUK Holdings"), a foreign utility subsidiary of Scottish Power, Scottish Power UK plc ("SPUK"), a foreign utility subsidiary of Scottish Power,[9] and Scottish Power NA 1 Limited and Scottish Power NA 2 Limited, intermediate registered holding companies, all located at 1 Atlantic Quay, Glasgow G2 8SP, Scotland, United Kingdom; PacifiCorp Holdings Inc. ("PHI"),[10] an intermediate registered holding company, PacifiCorp., an electric utility subsidiary of PHI, PacifiCorp Group Holding Company ("PGHC"), an intermediate holding company for PacifiCorp nonutility subsidiaries, and PacifiCorp's nonutility subsidiaries: PPM Energy Inc., Pacific Klamath Energy, Inc.; PacifiCorp Financial Services, Inc.; Energy West Mining Company; Glenrock Coal Company; Interwest Mining Company; Pacific Minerals, Inc.; PacifiCorp Environmental Remediation Company; PacifiCorp Investment Management, Inc.; PACE Group, Inc.; Enstor, Inc.; Arlington Wind LLC; and Heartland Wind LLC[11]; all located at Suite 2000, 825 N.E. Multnomah Street, Portland, Oregon 97232 (collectively, "Applicants"), have filed an application-declaration, as amended ("Application"), under sections 6(a), 7, 9(a), 10, 12, 13(b), 32, and 33 of the Act and rules 42, 43, 45, 46, 53, 54, 83, 87, 90, and 91 under the Act.

I. Introduction

ScottishPower registered as a holding company under the Act following its acquisition of PacifiCorp on November 29, 1999 ("Merger").[12] Applicants request authority to engage in various financing transactions, credit support arrangements, and other related proposals, as more fully discussed below, commencing on the effective date of an order issued in this matter and ending March 31, 2007 ("Authorization Period").

By order dated December 6, 2000 (Holding Co. Act Release No. 27290) ("Financing Order"), the Commission authorized ScottishPower and certain of its subsidiaries to engage in various financing transactions from the date of the Financing Order through March 31, 2004 ("Current Authorization Period").

The Financing Order authorized the Applicants to engage in the following transactions through the Current Authorization Period: (i) External financings by ScottishPower; (ii) certain external financings by PacifiCorp and the PHI Nonutility Subsidiary Companies; (iii) certain intrasystem financings including the creation of a new PacifiCorp utility money pool, and guarantees of the obligations of PacifiCorp subsidiaries and of the subsidiaries of ScottishPower's foreign utility subsidiary, SPUK Holdings; (iv) the payment by PacifiCorp subsidiaries and, in certain circumstances, by PacifiCorp, of dividends out of capital or unearned surplus; (v) increases in the number of shares authorized by PacifiCorp or by any of PacifiCorp's subsidiaries with respect to any capital security of the company, as well as alteration of the terms of any capital security; (vi) the formation of financing entities and the issuance by such entities of securities otherwise authorized to be issued and sold under the authority requested in this filing; and (vii) the formation of PHI to hold the shares of both PacifiCorp and PGHC.

II. Financing Conditions

Applicants represent that during the Authorization Period the proposed financing transactions, credit support

[9] SPUK Holdings and SPUK and its subsidiaries are collectively referred to as the "SPUK Holdings Group."

[10] PHI, Scottish Power NA 1 Limited, Scottish Power NA 2 Limited, and Scottish Power UK Holdings Limited are collectively referred to as the "Intermediate Companies."

[11] The nonutility subsidiaries of PacifiCorp are collectively referred to as the "PHI Nonutility Subsidiary Companies."

[12] Because ScottishPower concluded that the Merger was not subject to section 9(a)(2) of the Act, it did not obtain Commission approval for the Merger.

arrangements, and other related proposals will be subject to the following general terms and conditions:

(i) The aggregate amount of external debt and equity issued by the ScottishPower system pursuant to the authority requested in this matter will not exceed $8 billion, at any one time outstanding;

(ii) ScottishPower's "aggregate investment" in exempt wholesale generators ("EWGs") and foreign utility companies ("FUCOs"), as defined in rule 53 under the Act, will not exceed, without prior Commission approval, $12.5 billion;

(iii) The proceeds from the sale of securities in external financing transactions will be used for the acquisition, retirement or redemption of securities issued by the ScottishPower system, without the need for prior Commission approval and for necessary general corporate purposes including (a) the financing, in part, of the capital expenditures of the ScottishPower system, (b) the financing of working capital requirements of the ScottishPower system, and (c) other lawful general purposes;

(iv) The Total Common Equity [13] of PacifiCorp, as reflected in its most recent annual, quarterly or other periodic earnings report, will not fall below 30% of Total Capitalization.[14] ScottishPower commits to maintain its and PacifiCorp's long-term debt rating at an investment grade level through the Authorization Period. ScottishPower and PacifiCorp will each maintain a Total Common Equity as a percentage of Total Capitalization, measured on a U.S. GAAP basis, of at least 30% through the Authorization Period;

(v) The cost of money (interest rate giving effect to the economic life of the instrument) on debt financings of ScottishPower at the date of issuance will not exceed 300 basis points over that for comparable term U.S. treasury securities or government benchmark for the currency concerned;

(vi) The cost of money (dividend rate giving effect to the economic life of the instrument) on preferred securities of ScottishPower at the date of issuance will not exceed 500 basis points over that for comparable term U.S. treasury securities or government benchmark for the currency concerned.

The Applicants represent that no financing proceeds will be used to acquire a new subsidiary, other than a special purpose financing entity, unless such acquisition is consummated in accordance with an order of the Commission or an available exemption under the Act. The proceeds of external financings will be allocated to companies in the ScottishPower system in various ways through intrasystem financing discussed in this Application.

Applicants represent that no guarantees or other securities, other than common stock, may be issued in reliance upon the authorization to be granted by the Commission, unless: (i) The security to be issued, if rated, is rated investment grade; (ii) all outstanding securities of the issuer, that are rated, are rated investment grade; and (iii) all outstanding securities of the top level registered holding company, that are rated, are rated investment grade ("Investment Grade Condition"). For purposes of this Investment Grade Condition, a security will be deemed to be rated "investment grade" if it is rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3–1 under the Securities Exchange Act of 1934, as amended, ("1934 Act").

Applicants request that the Commission reserve jurisdiction over the issuance of any such securities that are rated below investment grade. Applicants further request that the Commission reserve jurisdiction over the issuance of any guarantee or other securities at any time that during the Authorization Period the conditions set forth in clauses (i) through (iii) above are not satisfied.

III. ScottishPower External Financing

ScottishPower requests authorization to increase its capitalization by issuing and selling from time to time long-term equity and debt securities aggregating not more than $8 billion at any one time outstanding during the Authorization Period ("External Financing Limit"). This amount would include ScottishPower's existing financing arrangements and would exclude any refinancing of current debt. Such securities could include, but would not necessarily be limited to, ordinary shares, preferred shares, options, warrants, unsecured long- and short-term debt (including commercial paper), convertible securities, subordinated debt, bank borrowings and securities with call or put options. Such financing amount includes ScottishPower's current outstanding equity and debt securities.[15] ScottishPower requests authorization to maintain all existing financial arrangements regarding outstanding equity and debt securities. ScottishPower proposes to also enter into currency and interest rate swaps as described below.

A. Ordinary Shares

ScottishPower's common stock equity consists of ordinary shares, with a par value of 50 pence each, that are listed on the London Stock Exchange. ScottishPower currently has American Depositary Shares ("ADSs") in the U.S. which trade as American Depositary Receipts ("ADRs") and represent four ordinary shares each. ScottishPower has established a sponsored ADR program in the U.S. and has its ADSs listed on the New York Stock Exchange and registered under the Securities Act of 1933, as amended ("1933 Act").[16]

ScottishPower seeks authority to use its ordinary shares (or associated ADSs) as consideration for acquisitions that are otherwise authorized or exempt under the Act. Among other things, transactions may involve the exchange of parent company equity securities for securities of the company being acquired in order to provide the seller with certain tax advantages. For purposes of the External Financing Limit, ScottishPower ordinary shares used to fund an acquisition of a company through the exchange of ScottishPower equity for securities being acquired would be valued at market value based upon the closing price of the ordinary shares on the London Stock Exchange on the day before closing of the sale or issuance.

Ordinary share financings covered by this Application may occur in any one of the following ways: (i) Through underwriters or dealers; (ii) through agents; (iii) directly to a number of purchasers or a single purchaser; (iv) directly to employees (or to trusts established for their benefit) and other shareholders through ScottishPower system employee benefit schemes; or (v) through the issuance of anti-dilution and/or bonus shares (*i.e.*, stock dividends) to existing shareholders.

In addition to other general corporate purposes, the ordinary shares will be used to fund employee benefit plans. ScottishPower and PacifiCorp currently maintain a number of employee benefit plans for personnel in the ScottishPower system pursuant to which employees may acquire or may

[13] Total Common Equity is defined as common stock plus retained earnings and accumulated other comprehensive income, presented on a U.S. Generally Accepted Accounting Principles ("GAAP") basis.

[14] Total Capitalization is defined the sum of Total Common Equity, preferred stock, and long- and short-term debt, including present maturities.

[15] As of September 30, 2003, ScottishPower had outstanding guarantees of $332 million, long-term debt of $8.33 billion, short-term debt of $505 million and common equity of $9.15 billion.

[16] As a result, ScottishPower has registered under the 1934 Act and files the periodic disclosure reports required of a foreign issuer with the Commission. The request contained herein with respect to ordinary shares refers to the issuance of ordinary shares directly, or indirectly, through the ADR program and, for purposes of this request, the ADSs are not considered separate securities from the underlying ordinary shares. As of September 30, 2003 ScottishPower had 1,857,477,594 ordinary shares and one "Special Share" outstanding.

be granted equity interests as part of their compensation.

More particularly, ScottishPower intends to issue ADSs to U.S. employees through PacifiCorp Stock Incentive Plan, Compensation Reduction Plan and K Plus Employee Savings and Stock Ownership Plan ("U.S. Plans"). In addition, other share-based plans may be developed to motivate and retain key executives. In addition, ScottishPower intends to issue ADSs to U.S. employees and ordinary shares to U.K. employees through its Executive Share Option Plan 2001 (the U.S./U.K. plan). In addition, ScottishPower intends to issue ordinary shares to its U.K. employees through its Long Term Incentive Plan, its Executive Share Option Scheme, its Sharesave Scheme and its Employee Share Ownership Plan (the "U.K. Plans").

ScottishPower requests authority to issue approximately 82 million ordinary shares to employees under its existing plans, the U.S. Plans, the U.K. Plans and such additional plans created after the date of the requested order in this matter that may be developed for the purposes stated above. Securities issued by ScottishPower under all of the plans will be included within the External Financing Limit and will be valued, if ordinary shares, at market value based on the closing price on the London Stock Exchange on the day before the award. Securities issued that are not ordinary shares will be valued based on a reasonable and consistent method applied at the time of the award.[17]

B. Preferred Stock

ScottishPower proposes to issue preferred stock from time to time during the Authorization Period. Any such preferred stock would have dividend rates or methods of determining the same, redemption provisions, conversion or put terms and other terms and conditions as ScottishPower may determine at the time of issuance, provided that the cost of money (dividend rate giving effect to the economic life of the instrument) on preferred stock of ScottishPower, when issued, will not exceed 500 basis points over that for comparable term U.S. treasury securities or government benchmark for the currency concerned. In addition, all issuances of preferred stock will be at rates or prices based upon or otherwise determined by competitive capital markets.

C. Debt

1. Long-Term Debt

The Applicants propose to issue unsecured debt securities from time to time during the Authorization Period. Any debt securities would have the designation, aggregate principal amount, interest rate(s) or method of determining the same, terms of payment of interest, redemption provisions, non-refunding provisions, sinking fund terms, conversion or put terms and other terms and conditions as are deemed appropriate at the time of issuance, provided however, that the cost of money (interest rate giving effect to the economic life of the instrument) on debt financings will not exceed 300 basis points over that for comparable term U.S. treasury securities or government benchmark for the currency concerned.

2. Short-Term Debt

ScottishPower also seeks authority to issue additional short-term debt in the form of commercial paper, promissory notes and/or other forms of short-term indebtedness in an aggregate principal amount at any one time outstanding not to exceed $2 billion ("Short-term Debt Limit"). ScottishPower proposes to establish from time to time new committed bank lines of credit, provided that only the principal amount of any borrowings outstanding under these new committed bank lines of credit will be counted against the proposed Short-term Debt Limit. Credit lines may be set up for use by ScottishPower for general corporate purposes in addition to credit lines to support commercial paper. ScottishPower will borrow and repay under these lines of credit, from time to time, as it is deemed appropriate or necessary. All borrowings under these credit lines will mature in less than one year. ScottishPower may also engage in other types of short-term financing, including borrowings under uncommitted lines, generally available to borrowers with comparable credit ratings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

ScottishPower may also sell commercial paper in established U.S. or European commercial paper markets, from time to time, and this commercial paper would be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. It is expected that the dealers acquiring commercial paper from ScottishPower will reoffer such paper at a discount to corporate, institutional and, with respect to European commercial paper, individual investors. Institutional investors are expected to include commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities and finance companies.

D. Hedging Transactions

1. Interest Rate Hedges

In order to protect the ScottishPower system from adverse interest rate movements, the interest rate on the debt portfolio is managed through the use of fixed-rate debt, combined with interest rate and cross currency swaps, options and option-related instruments with a view to maintaining a significant proportion of fixed rates over the medium term. The proportion of debt at fixed rates is varied over time and within policy guidelines, depending on debt projections and market levels of interest rates. The resulting position as of September 30, 2003, was that 95% of the ScottishPower system borrowings were at fixed rates of interest. ScottishPower requests authorization to enter into interest rate and currency hedges in order to reduce or manage interest rate cost and foreign exchange exposures, subject to certain limitations and restrictions, through the Authorization Period.[18]

2. Anticipatory Hedges

ScottishPower also requests authorization to enter into anticipatory hedges, subject to certain limitations and restrictions. ScottishPower produces accounts according to UK GAAP (Internal Accounting Standards

[17] ScottishPower's corporate structure contains a special share that is currently owned by the U.K. Government ("Special Share"). The Special Share may only be held by the U.K. Government or persons acting on its behalf. It is a single non-voting share that prevents amendments to ScottishPower's Memorandum and Articles of Association. Those documents in turn restrict certain classes of persons from owning more than a prescribed shareholding in ScottishPower.

[18] Interest rate and currency hedges would only be entered into with counterparties ("Approved Counterparties") whose senior debt ratings, or the senior debt ratings of the parent companies of the counterparties, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's, Fitch Investor Service or Duff and Phelps. Interest rate hedges will involve the use of financial instruments commonly used in today's capital markets, such as interest rate and currency forwards, futures, swaps, caps, collars, floors, and structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of government or agency (*e.g.*, FNMA) obligations or LIBOR-based swap instruments. Transactions would be for fixed periods and stated notional amounts. Fees, commissions or other amounts payable to the counterparty or exchange (excluding, however, the swap or option payments) in connection with an interest rate and currency hedge will not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

("IAS") with effect from April 1, 2005 or such later date as IAS becomes effective) but produces a reconciliation to U.S. GAAP which will comply with Statement of Financial Accounting Standard ("SFAS") 133 (Accounting for Derivative Instruments and Hedging Activities) and SFAS 138 (Accounting for Certain Derivative Instruments and Certain Hedging Activities) or other standards relating to accounting for derivative transactions as are adopted and implemented by the Financial Accounting Standards Board ("FASB"). Because of the international nature of ScottishPower's business and the complex nature of its debt portfolio it cannot represent that each interest rate and currency hedge and each anticipatory hedge will qualify for hedge accounting treatment under the current FASB standards in effect and as determined as of the date such interest rate and currency hedge or anticipatory hedge is entered into but it is their intention to achieve such hedge accounting treatment wherever possible. The Applicants will also comply with any future FASB financial disclosure requirements associated with hedging transactions.[19]

IV. Intermediate Companies

Each of the Intermediate Companies is seeking authorization to continue to issue and sell securities to, and acquire securities from, its immediate parent, subsidiary companies and fellow Intermediate Companies, respectively. Each of the Intermediate Companies and ScottishPower is also seeking authorization to continue to issue guarantees and other forms of credit support to direct and indirect subsidiaries. In no case would the Intermediate Companies or ScottishPower borrow, or receive any extension of credit or indemnity from any of their respective direct or indirect subsidiary companies. The interest rates and maturity dates of any debt security issued by PacifiCorp to its immediate parent company will be designed to parallel the effective cost of capital of ScottishPower.

Authority is also sought for ScottishPower to form new intermediate holding company entities[20] and the issuance and acquisition by such entities of securities in order to permit both reinvestment and repatriation of the profits of PacifiCorp and the PHI Nonutility Subsidiary Companies to ScottishPower in a efficient manner. ScottishPower will continue to be the ultimate owner of PacifiCorp and the PHI Nonutility Subsidiary Companies.

V. PacifiCorp and PHI Nonutility Subsidiary Company Financings

Applicants state that the existing financing arrangements, with the exception of the commercial paper transactions discussed below, of PacifiCorp and the PHI Nonutility Subsidiary Companies are exempt under rule 52 and therefore, do not require Commission authorization and will remain in place. The Applicants request, to the extent the Commission has jurisdiction, to maintain all its financing authority through the Authorization Period.[21] PacifiCorp and the PHI Nonutility Subsidiary Companies financing authority requested below is in addition to the External Financing Limit requested by ScottishPower for the ScottishPower system.

A. Existing Intercompany Arrangements

Currently, PacifiCorp and the PHI Nonutility Subsidiary Companies have two intercompany lending arrangements. The first loan agreement allows for loans between PacifiCorp and certain of its associate companies. This intercompany loan agreement has been authorized by the Oregon Public Utility Commission ("OPUC") up to $200 million for loans by PacifiCorp and unlimited amounts for loans to PacifiCorp. These loans are payable on demand, are evidenced by notes and with interest at PacifiCorp's short-term borrowing rate whether the loan is to or from PacifiCorp. The second loan agreement allows for loans up to $350 million to be made among PGHC and certain of its associate companies. These loans are payable on demand and, if from PGHC, bear interest at a negotiated rate or PGHC's short-term borrowing rate plus a margin (depending on the ratings of the borrower) or at PGHC's short-term borrowing rate if the borrower is PGHC.[22] Applicants request authorization, to the extent not exempt under rule 52, to continue their use of the existing loan agreements through the Authorization Period.

B. Short-Term Debt

Authority is requested for PacifiCorp to issue commercial paper and promissory notes not to exceed the aggregate amount of $1.5 billion to be outstanding at any one time during the Authorization Period. This level of debt authority has been authorized by the Federal Energy Regulatory Commission ("FERC") and all of the state utility commissions regulating PacifiCorp's revolving credit agreements.[23] The OPUC has not authorized the issuance of the commercial paper because it is not jurisdictional.

PacifiCorp requests authority to enter into short-term financing arrangements described above through the Authorization Period. Subject to the limitations set forth in the Application, commercial paper borrowings will be tailored to mature at such time as excess funds from PacifiCorp are expected to become available for loans through the existing intercompany borrowing arrangements.

VI. Guarantees and Loans

ScottishPower and the Intermediate Companies request authorization to the extent necessary under the Act to enter into guarantees, obtain letters of credit, enter into guarantee-type agreements, make loans or capital contributions, or otherwise provide credit support with respect to the obligations of PacifiCorp and the PHI Nonutility Subsidiary Companies and the SPUK Holdings Group as may be appropriate to enable such system companies to carry on their respective authorized or permitted businesses and to maintain, to the extent not exempted under rule 45, all existing guarantee and loan

[19] Anticipatory hedges would only be entered into with Approved Counterparties and would be utilized to fix and/or limit the interest rate or currency risk associated with any new issuance through (i) a sale of exchange-traded government futures contracts, government obligations and/or a forward swap (each a "Forward Sale"); (ii) the purchase of put options on government obligations (a "Put Options Purchase"); (iii) a Put Options Purchase in combination with the sale of call options on government obligations (a "Collar"); (iv) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations; or (v) some combination of a Forward Sale, Put Options Purchase, Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory hedges.

[20] None of the above-mentioned to-be-formed foreign based intermediate companies will be a party to PacifiCorp and PHI Nonutility Subsidiary Companies' consolidated tax allocation agreement, thereby creating any issues under rule 45 of the Act.

[21] As of September 30, 2003, SPUK Holdings Group has outstanding long-term debt of $3.86 billion, short-term debt of $75 million and common equity of $2.51 billion, presented on a U.S. GAAP basis. In addition, ScottishPower has outstanding guarantees in the amount of approximately $332 million, presented on a U.S. GAAP basis.

[22] Borrowings from PGHC will bear interest on the outstanding principal amount thereof, for each day from the date such borrowing is made until it becomes due, at a rate per annum equal to the prime rate for such day plus a margin (depending on the ratings of the borrower) as agreed to from time-to-time by PGHC and the borrower and set forth in the ledger maintained by PGHC; however, in no event will the borrower's rate exceed PGHC's cost of short-term funds for such day plus 3/8%.

[23] PacifiCorp is regulated by the Public Utilities Commission of the State of California, the Idaho Public Utilities Commission, the Public Service Commission of Utah, the Washington Utilities and Transportation Commission, the Public Service Commission of Wyoming, and OPUC.

arrangements through the Authorization Period.[24] Such credit support may be in the form of committed bank lines of credit. Such guarantees and credit support to be made to the SPUK Holdings Group will be included in the aggregate investment of ScottishPower for the purposes of rule 53. The cost of such guarantees and loans will be at market rates or parallel the cost of obtaining the liquidity necessary to support the guarantee or loan, as the case may be.

In addition, authority is requested for the PHI Nonutility Subsidiary Companies to enter into similar arrangements with one another, to the extent not exempted under rule 45. Guarantees, capital contributions, and loans entered into by ScottishPower and the Intermediate Companies and the PHI Nonutility Companies will be subject to a $8 billion limit ("Guarantee Limit") (not included in the $8 billion external Financing Limit), based upon the amount at risk. Such guarantees will include ScottishPower's currently outstanding guarantees.

VII. Other Transactions

A. Financing Entities/Special Purpose Entities

Authority is sought for ScottishPower and PacifiCorp and the PHI Nonutility Subsidiary Companies to organize new corporations, trusts, partnerships or other entities created for the purpose of facilitating financings through their issuance to third parties of income preferred securities or other securities authorized hereby or issued pursuant to an applicable exemption through the Authorization Period. Request is also made for these financing entities to issue such securities to third parties in the event such issuances are not exempt pursuant to rule 52. Additionally, request is made through the Authorization Period to (i) issue debentures or other evidences of indebtedness by any of ScottishPower or PacifiCorp and the PHI Nonutility Subsidiary Companies to a financing entity in return for the proceeds of the financing; (ii) acquire voting interests or equity securities issued by the financing entity to establish ownership of the financing entity, by any of ScottishPower or PacifiCorp and the PHI Nonutility Subsidiary Companies; and (iii) guarantee by the Applicants of such financing entity's obligations in connection with such acquisition. Each of ScottishPower and PacifiCorp and the PHI Nonutility Subsidiary Companies also may enter into expense agreements with its respective financing entity, pursuant to which it would agree to pay all expenses of such entity. All expense reimbursements would be at cost.[25] Applicants seek authorization for such expense reimbursement arrangements under section 7(d)(4) of the Act, regarding the reasonableness of fees paid in connection with the issuance of a security, and/or under section 13 of the Act and the rules thereunder to the extent the financing entity is deemed to provide services to an associate company.

Any amounts issued by such financing entities to third parties pursuant to this authorization will count against the external financing limits authorized in this matter for the immediate parent of such financing entity. However, the underlying intra-system mirror debt and parent guarantee will not count against the External Financing Limit or the separate ScottishPower Guarantee Limit.

Applicants also request authorization to acquire, directly or indirectly, the equity securities of one or more financing/special purposes subsidiaries ("Financing/Special Purpose Subsidiaries") organized exclusively for the purpose of acquiring, financing, and holding the securities of, one or more existing or future nonutility subsidiaries. Financing/Special Purpose Subsidiaries may also provide management, administrative, project development and operating services to these entities.

Financing/Special Purpose Subsidiaries may be corporations, partnerships, limited liability companies or other entities in which ScottishPower, directly or indirectly, may have a 100% interest, a majority equity or debt position, or a minority debt or equity position. Financing/Special Purpose Subsidiaries would engage only in businesses to the extent that ScottishPower is authorized, whether by statute, rule, regulation or order, to engage in those businesses. ScottishPower commits that the requested authorization will not result in the entry into a new, unauthorized line of business by the SPUK Holdings Group or PacifiCorp and the PHI Nonutility Subsidiary Companies.

Financing/Special Purpose Subsidiaries would be organized for the purpose of acquiring, holding and/or financing the acquisition of the securities of, or other interest in, one or more EWGs, FUCOs, subsidiaries engaged in rule 58 activities ("Rule 58 Company"), energy-related subsidiaries, or Exempt Telecommunications Companies ("ETCs"). Financing/Special Purpose Subsidiaries may also engage in development activities ("Development Activities") and administrative activities ("Administrative Activities") relating to the permitted businesses of the nonutility subsidiaries.

Development Activities will include due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including, in connection therewith, posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal "hosts," fuel suppliers and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and such other preliminary activities as may be required in connection with the purchase, acquisition, financing or construction of facilities or the acquisition of securities of, or interests in, new businesses. Administrative Activities will include ongoing personnel, accounting, engineering, legal, financial and other support activities necessary to manage ScottishPower and PacifiCorp and the PHI Nonutility Subsidiary Companies' investments in nonutility subsidiaries.

A Financing/Special Purpose Subsidiary may be organized, among other things, (i) to facilitate the making of bids or proposals to develop or acquire an interest in any EWG, FUCO, Rule 58 Company, energy-related subsidiary, ETC; (ii) after the award of the a bid proposal, to facilitate closing on the purchase or financing of the acquired company; (iii) at any time subsequent to the consummation of an acquisition of an interest in any company in order, among other things, to effect an adjustment in the respective ownership interests in business held by ScottishPower or PacifiCorp and the PHI Nonutility Subsidiary Companies and non-affiliated investors; (iv) to facilitate the sale of ownership interests in one or more acquired nonutility companies; (v) to comply with applicable laws of foreign jurisdictions limiting, or otherwise relating to, the ownership of domestic companies by foreign nationals; (vi) as a part of financial optimization or tax planning; or (vii) to further insulate PacifiCorp from operational or other business risks that

[24] PacifiCorp, the PHI Nonutility Subsidiary Companies and certain members of the SPUK Holdings Group, entered into most of their respective guarantees and loan arrangements prior to the completion of the Merger.

[25] External financing will be subject to the financing limits proposed in this Application.

may be associated with investments in nonutility companies.

To the extent that these transactions are not exempt from the Act or are otherwise authorized or permitted by rule, regulation or order, ScottishPower requests authorization for the Financing/Special Purpose Subsidiaries to provide management, administrative, project development and operating services to direct or indirect subsidiaries at cost in accordance with section 13 of the Act and related rules, including rules 90 and 91. ScottishPower also proposes, however, that development subsidiaries would provide services and sell goods at fair market prices, under an exemption from the at-cost standard of section 13(b) of the Act and rules 90 and 91 under the Act, when the associate company receiving the goods or services is:

(i) A FUCO or foreign EWG that does not derive any income, directly or indirectly, from the generation, transmission or distribution of electric energy for sale within the United States;

(ii) An EWG that sells electricity to nonassociate companies at market-based rates approved by the FERC;

(iii) A qualifying facility ("QF") that sells electricity to industrial or commercial customers for their own use at negotiated prices or to electric utility companies at their "avoided cost," as defined under the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA");

(iv) A domestic EWG or QF that sells electricity to nonassociate companies at cost-based rates approved by the FERC or a state commission; and

(v) A Rule 58 Company or any other authorized subsidiary that: (a) Is partially owned, provided that the ultimate purchaser of the goods or services is not an associate public-utility company or an associate company that primarily provides goods and services to associate public-utility companies; (b) is engaged solely in the business of developing, owning, operating and/or providing goods and services to nonutility companies described in items (i) through (iv), above; or (c) does not derive, directly or indirectly, any material part of its income from sources within the United States and is not a public-utility company operating within the United States.

B. Corporate Restructuring

ScottishPower anticipates that as it continues to review the combined operations of the ScottishPower system, it may prove prudent to continue to reorganize its nonutility companies. Specifically, ScottishPower proposes to engage in corporate restructuring or reorganization of its nonutility companies without prior Commission approval. Restructuring could involve the acquisition of one or more new Financing/Special Purpose Subsidiaries to acquire and hold direct or indirect interests in any or all of ScottishPower's existing or future authorized nonutility businesses. Restructuring could also involve consolidation, redemption and the retirement of the securities of such nonutility businesses or the transfer of existing subsidiaries, or portions of existing businesses, among the ScottishPower group companies and/or the reincorporation of existing subsidiaries in a different jurisdiction. The restructuring may also take the form of a nonutility subsidiary selling, contributing or transferring the equity securities of a subsidiary or all or part of the subsidiary's assets as a dividend to another nonutility subsidiary and the acquisition, directly or indirectly, of the equity securities or assets of a subsidiary, either by purchase or by receipt of a dividend.

C. Changes in Capital Stock of Majority Owned Subsidiaries

The portion of the aggregate financing of PacifiCorp or an individual wholly owned subsidiary of PacifiCorp and the PHI Nonutility Subsidiary Companies to be effected through the sale of equity securities to its immediate parent company during the Authorization Period cannot be determined at this time. It may happen that the proposed sale of capital securities may in some cases exceed the then authorized capital stock of PacifiCorp or such PHI Nonutility Subsidiary Company. In addition, PacifiCorp or such PHI Nonutility Subsidiary Company may choose to use other forms of capital securities. Capital stock includes common stock, preferred stock, other preferred securities, options and/or warrants convertible into common or preferred stock, rights, and similar securities. As needed to accommodate the sale of additional equity, Applicants request the authority to increase the amount or change the terms of any wholly owned subsidiary of PacifiCorp and the PHI Nonutility Subsidiary Companies authorized capital securities, without additional Commission approval. The terms that may be changed include dividend rates, conversion rates and dates, and expiration dates. Applicants note that each of the Intermediate Companies will be wholly owned directly or indirectly by ScottishPower and that none will have third-party investors. Applicants request authorization to make changes to the capital stock of PacifiCorp or any wholly owned subsidiary of PacifiCorp and the PHI Nonutility Subsidiary Companies.

D. Payment of Dividends

Applicants state that there may be situations in which one or more of the PHI Nonutility Subsidiary Companies will have unrestricted cash available for distribution in excess of current and retained earnings. Consistent with these considerations, the Applicants request authorization for the current and future PHI Nonutility Subsidiary Companies to pay dividends out of capital and unearned surplus, through the Authorization Period, provided, however, that, without further approval of the Commission, no PHI Nonutility Subsidiary Company will declare or pay any dividend out of capital or unearned surplus if the PHI Nonutility Subsidiary Companies derives any material part of its revenues from the sale of goods, services or electricity to PacifiCorp. In addition, the PHI Nonutility Subsidiary Companies will not declare or pay any dividend out of capital or unearned surplus unless it: (i) Has received excess cash as a result of the sale of its assets; (ii) has engaged in a restructuring or reorganization; and/or (iii) is returning capital to an associate company.

The Applicants request authority for PacifiCorp to continue to pay dividends out of capital and unearned surplus to the extent of the proceeds it received from the sale of assets outside of its regulated utility business.[26] Distributions out of capital and unearned surplus from the PHI Nonutility Subsidiary Companies would allow available funds to be utilized where appropriate within PacifiCorp and the PHI Nonutility Subsidiary Companies consistent with PacifiCorp's commitment to maintain its Total Common Equity to be at least 30% through the Authorization Period.

E. EWGs and FUCOs

ScottishPower has adopted a corporate structure that separates its existing foreign operations from its U.S. utility operations. The organization of foreign activities under SPUK, and U.S. utility activities under PacifiCorp, reflects ScottishPower's intent to develop these two business areas in a financially independent manner. To that end, ScottishPower is seeking authority to finance EWG and FUCO investments

[26] In 2001, PacifiCorp and certain of its associate companies completed the sale of its FUCO investments in Australia. The requested authority would allow the proceeds from any such sale to be distributed by PacifiCorp to its shareholder. PacifiCorp and its associate companies have not completed the above-mentioned dividend payments to its shareholder from the proceeds of the sale of the Australian FUCOs. The Applicants continue to believe that any such distribution would not have an adverse effect on PacifiCorp's utility operations or the public interest.

and operations in an aggregate amount of up to $12.5 billion at any one time outstanding, during the Authorization Period.[27] The $12.5 billion represents approximately 420% of the ScottishPower system's consolidated retained earnings. As of September 30, 2003, 100% of the ScottishPower system consolidated retained earnings on a U.S. GAAP basis was $3.14 billion.[28]

[27] As noted above, most of ScottishPower's FUCO investments are held through SPUK Holdings.

[28] Converting at £1.00: $1.661, the closing exchange rate at September 30, 2003.

F. Tax Allocation Agreement

The Applicants ask the Commission to approve an amended agreement for the allocation of consolidated tax among PHI, PacifiCorp and the PHI Nonutility Subsidiary Companies ("Tax Allocation Agreement").

The proposed Tax Allocation Agreement requires approval because it now provides for cash payment to certain associate companies and provides for the retention by the U.S. parent of the U.S. tax filing group of certain tax attributes resulting from payments it has made, rather than the allocation of these losses to the subsidiaries in the U.S. tax filing group without compensation. PHI seeks to retain only the benefits of tax losses that have been generated by it in connection with the merger of ScottishPower with PacifiCorp. As a result of the merger with PacifiCorp, PHI now generates tax benefits from the interest expense on the acquisition-related debt that is non-recourse to PacifiCorp and is unrelated to the financing of operations.

VIII. Service Company Approvals

PacifiCorp has been providing administrative, management, technical, legal and other support services to its subsidiaries for many years. In addition, there have been occasions when subsidiaries of PacifiCorp have provided services to PacifiCorp or to other PHI Nonutility Subsidiary Companies. PacifiCorp now proposes to continue these arrangements, with PacifiCorp providing services to the PHI Nonutility Subsidiary Companies and other associate companies in the holding company system pursuant to rule 87 under the Act. PHI Nonutility Subsidiary Companies propose to provide services to PacifiCorp pursuant to section 13(b). All service transactions, as explained above, will be priced at cost in accordance with section 13 of the Act and the rules under the Act. In the event that the market rate of the services is less than cost, neither PacifiCorp nor the PHI Nonutility Subsidiary Companies will provide such services. PacifiCorp also proposes to engage in service activities with SPUK and certain members of the SPUK Holdings Group.

In addition, SPUK or another member of the SPUK Holdings Group proposes to perform services for PacifiCorp and the PHI Nonutility Subsidiary Companies. All service transactions will be priced at cost in accordance with section 13 of the Act and the rules thereunder.

PacifiCorp and the PHI Nonutility Subsidiary Companies request authorization under section 13(b) of the Act to provide services and sell goods to its members and the SPUK Holdings Group at fair market prices determined without regard to cost, and request an exemption under section 13(b) from the cost standards of rules 90 and 91 as applicable to these transactions, in any case in which the non-utility subsidiary purchasing these goods or services is:

(i) A FUCO or foreign EWG which derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States;

(ii) An EWG which sells electricity at market-based rates which have been approved by the FERC, provided that the purchaser is not PacifiCorp;

(iii) A QF that sells electricity exclusively (a) at rates negotiated at arms' length to one or more industrial or commercial customers purchasing the electricity for their own use and not for resale, and/or (b) to an electric utility company at the purchaser's "avoided cost" as determined in accordance with PURPA regulations;

(iv) A domestic EWG or QF that sells electricity at rates based upon its cost of service, as approved by FERC or any state public utility commission having jurisdiction, provided that the purchaser is not PacifiCorp; or

(v) A Rule 58 Company or any other non-utility subsidiary that (a) is partially owned by a member of the PHI Nonutility Subsidiary Companies or the SPUK Holdings Group, provided that the ultimate purchaser of such goods or services is not PacifiCorp, (b) is engaged solely in the business of developing, owning, operating and/or providing services or goods to the nonutility subsidiaries described in clauses (i) through (iv) immediately above, or (c) does not derive, directly or indirectly, any material part of its income from sources within the United States and is not a public-utility company operating within the United States.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–5587 Filed 3–11–04; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Verdisys, Inc.; Order of Suspension of Trading

March 10, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Verdisys, Inc. ("Verdisys") because of questions regarding the accuracy and adequacy of assertions by Veridsys, and by others, in periodic and current filings and press releases to investors, concerning, among other things: (1) The company's business operations related to its lateral drilling services; and (2) the company's anticipated and actual revenues.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in securities related to the above company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in all securities, as defined in section 3(a)(10) of the Securities Exchange Act of 1934, issued by the above company, is suspended for the period from 9:30 a.m. e.s.t. on Wednesday, March 10, 2004, and terminating at 11:59 p.m. e.s.t. on Tuesday, March 23, 2004.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–5783 Filed 3–10–04; 2:49 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49371; File No. SR–Amex–2004–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to Audit Committee Meeting Requirements Applicable to Registered Closed-End Management Investment Companies

March 5, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 13, 2004, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC")

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend section 121 of the Amex *Company Guide* to modify the audit committee meeting requirements applicable to registered closed-end management investment companies. Proposed new language is in *italics;* proposed deletions are in brackets.

* * * * *

American Stock Exchange Company Guide

Section 121. INDEPENDENT DIRECTORS AND AUDIT COMMITTEE

A.—No change.

B (1) and (2)—No change.

(3) Meeting Requirements.

The Audit Committee of each listed company must meet on at least a quarterly basis[.], *except that with respect to listed registered closed-end management investment companies, the Audit Committee must meet on a regular basis as often as necessary to fulfill its responsibilities, including at least annually in connection with issuance of the company's audited financial statements.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In December 2003, the Commission approved a broad array of enhancements to the corporate governance requirements applicable to listed companies.[3] Included within those changes is a revision to section 121 of the Amex *Company Guide* to explicitly require listed company audit committees to meet on at least a quarterly basis. This change was intended to codify the existing practice of virtually all operating companies.

The Exchange is proposing to modify this requirement with respect to closed-end funds to specify that the audit committee of a closed-end fund must meet on a regular basis as often as necessary to fulfill its responsibilities, including at least annually in connection with issuance of the fund's audited financial statements. This change will more closely align the Amex requirement to the customary practices of most closed-end funds. In particular, while there is some variation in practice with respect to the frequency of closed-end fund audit committee meetings, most funds hold one or more audit committee meetings in connection with the preparation, review and issuance of their audited financial statements. While closed-end funds are subject to the pervasive federal regulation pursuant to the Investment Company Act of 1940 (which imposes specific corporate governance requirements), Commission rules do not require them to file quarterly reports with the Commission. The Exchange therefore does not believe it is necessary or appropriate to impose a quarterly audit committee meeting requirement. However, the proposed rule would require closed-end fund audit committees to meet as often as necessary, even if more frequently than quarterly, depending on the unique circumstances facing a particular fund.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act[4] in general and furthers the objectives of section 6(b)(5)[5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–Amex–2004–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

[3] *See* Securities Exchange Act Release No. 48863 (December 1, 2003), 68 FR 68432 (December 8, 2003) (order approving File No. SR–Amex–2003–65).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex.

All submissions should refer to the File No. SR–Amex–2004–12 and should be submitted by April 2, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–5651 Filed 3–11–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49373; File No. SR–FICC–2003–09]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Establish a Comprehensive Standard of Care and Limit the Mortgage-Backed Securities Division's Liability to its Participants

March 8, 2004.

I. Introduction

On August 19, 2003, the Fixed Income Clearing Corporation ("FICC")[1] filed with the Securities and Exchange Commission ("Commission") proposed rule change SR–FICC–2003–09 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[2] Notice of the proposal was published in the **Federal Register** on January 15, 2004.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

FICC is establishing a comprehensive standard of care and limitation of liability for the participants of MBSD that is identical to that of FICC's Government Securities Division ("GSD").[4] Historically, the Commission has left to user-governed clearing agencies the question of how to allocate losses associated with, among other things, clearing agency functions.[5] In past considerations, the Commission has reviewed clearing agency services on a case-by-case basis and in determining the appropriate standard of care has balanced the need for a high degree of clearing agency care with the effect the resulting liabilities may have on a clearing agency's operations, costs, and ability to safekeep securities and funds.[6] Because standards of care limitations of liability represent an allocation of rights and liabilities between a clearing agency and its participants, which are generally sophisticated financial entities, the Commission has refrained from establishing a unique federal standard of care and has allowed clearing agencies and other self-regulatory organizations and their participants to establish their own standard of care.[7]

MBSD rules already provide for a standard of care similar to that now provided for in the GSD rules. The proposed rule changes make the MBSD standard of care provision in its rules identical to the provision in GSD's rules. Thus, in addition to being responsible to participants for gross negligence and willful misconduct, MBSD will be liable for direct losses caused by its violation of Federal securities laws for which there is a private right of action. MBSD will not be liable for the acts or omissions of third parties unless MBSD was grossly negligent, engaged in willful misconduct, or in violation of Federal securities laws for which there is a private right of action in selecting such third party. Moreover, MBSD will be relieved of any liability for consequential and other indirect damages. By making these changes to MBSD rules, both GSD and MBSD rules will be identical, lending consistency to FICC's approach to these issues.

FICC believes that adopting a uniform rule[8] limiting MBSD's liability to its participants to direct losses caused by MBSD's gross negligence, willful misconduct, or violation of Federal securities laws for which there is a private right of action: (a) Memorializes an appropriate commercial standard of care that will protect MBSD from undue liability; (b) permits the resources of MBSD to be appropriately utilized for promoting the accurate clearance and settlement of securities; and (c) is consistent with similar rules adopted by other self-regulatory organizations and approved by the Commission.[9]

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[10] The Commission believes that approval of FICC's rule change is consistent with this Section because it will permit the resources of MBSD to be appropriately utilized for promoting the prompt and accurate clearance and settlement of securities.

Although the Act does not specify the standard of care that must be exercised by registered clearing agencies, the Commission has determined that a gross negligence standard of care is acceptable for noncustodial functions where a

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[6] 17 CFR 200.30–3(a)(12).

[1] On January 1, 2003, MBS Clearing Corporation ("MBSCC") was merged into the Government Securities Clearing Corporation ("GSCC"), and GSCC was renamed the Fixed Income Clearing Corporation ("FICC"). The functions previously performed by GSCC are now performed by the Government Securities Division ("GSD") of FICC, and the functions previously performed by MBSCC are now performed by the Mortgage-Backed Securities Division ("MBSD") of FICC. Securities Exchange Act Release No. 47015 (December 17, 2002), 67 FR 78531 [File Nos. SR–GSCC–2002–09 and SR–MBSCC–2002–01].

[2] 15 U.S.C. 78s(b)(1).

[3] Securities Exchange Act Release No. 49048 (January 9, 2004), 69 FR 2375.

[4] The Commission has approved identical rule language for GSD establishing a comprehensive standard of care and limitation of liability to its members. Securities Exchange Act Release No. 48201 (July 21, 2003), 68 FR 44128 [File No. SR–GSCC–2002–10].

[5] Securities Exchange Act Release Nos. 20221 (September 23, 1983), 48 FR 45167 and 22940 (February 24, 1986), 51 FR 7169.

[6] *Id.*

[7] *Id.*

[8] MBSD Clearing Rules Article V, Rule 6, Sections 1(a) and (b) and MBSD EPN Rulebook Article X, Rule 6, Sections 1(a) and (b) now read as follows:

(a) The Corporation will not be liable for any action taken, or any delay or failure to take any action, hereunder or otherwise to fulfill the Corporation's obligations to its Participants [EPN users and Participants], other than for losses caused directly by the Corporation's gross negligence, willful misconduct, or violation of Federal securities laws for which there is a private right of action. Under no circumstances will the Corporation be liable for the acts, delays, omissions, bankruptcy, or insolvency, of any third party, including, without limitation, any depository, custodian, sub-custodian, clearing or settlement system, transfer agent, registrar, data communication service or delivery service ("Third Party"), unless the Corporation was grossly negligent, engaged in willful misconduct, or in violation of Federal securities laws for which there is a private right of action in selecting such Third Party; and

(b) Under no circumstances will the Corporation be liable for any indirect, consequential, incidental, special, punitive or exemplary loss or damage (including, but not limited to, loss of business, loss of profits, trading losses, loss of opportunity and loss of use) howsoever suffered or incurred, regardless of whether the Corporation has been advised of the possibility of such damages or whether such damages otherwise could have been foreseen or prevented.

[9] *See, e.g.*, Securities Exchange Act Release Nos. 37421 (July 11, 1996), 61 FR 37513 [SR–CBOE–96–02] and 37563 (August 14, 1996), 61 FR 43285 [SR–PSE–96–21].

[10] 15 U.S.C. 78q–1(b)(3)(F).

clearing agency and its participants contractually agree to limit the liability of the clearing agency.[11] MBSD's functions are noncustodial in that it does not hold its participants' funds or securities. It is reasonable for MBSD, which is participant-owned and governed, and its participants to agree through board approval of the proposed rule change and to contract with one another in a cooperative arrangement as to how to allocate MBSD's liability among MBSD and its participants. Therefore, the Commission has determined that given the noncustodial nature of MBSD's services, a gross negligence standard of care and limitation of liability is allowable for MBSD.[12]

[11] In the release setting forth standards to be used by the Division of Market Regulation in evaluating clearing agency registration applications, the Division of Market Regulation urged clearing agencies to embrace a strict standard of care in safeguarding participants' funds and securities. Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 4192. In the release granting permanent registration to The Depository Trust Company, the National Securities Clearing Corporation, and several other clearing agencies, however, the Commission indicated that it did not believe that sufficient justification existed at that time to require a unique federal standard of care for registered clearing agencies. Securities Exchange Act Release No. 20221 (October 3, 1983), 48 FR 45167. In a subsequent release, the Commission stated that the clearing agency standard of care and the allocation of rights and liabilities between a clearing agency and its participants applicable to clearing agency services generally may be set by the clearing agency and its participants. In the same release, the Commission stated that it should review clearing agency proposed rule changes in this area on a case-by-case basis and balance the need for a high degree of clearing agency care with the effect resulting liabilities may have on clearing agency operations, costs, and safeguarding of securities and funds. Securities Exchange Act Release No. 22940 (February 24, 1986), 51 FR 7169. Subsequently, in a release granting temporary registration as a clearing agency to The Intermarket Clearing Corporation, the Commission stated that a gross negligence standard of care may be appropriate for certain noncustodial functions that, consistent with minimizing risk mutualization, a clearing agency, its board of directors, and its members determine to allocate to individual service users. Securities Exchange Act Release No. 26154 (October 3, 1988), 53 FR 39556. Finally, in a release granting the approval of temporary registration as a clearing agency to the International Securities Clearing Corporation, the Commission indicated that historically it has left to user-governed clearing agencies the question of how to allocate losses associated with noncustodial, data processing, clearing agency functions and has approved clearing agency services embodying a gross-negligence standard of care. Securities Exchange Act Release No. 26812 (May 12, 1989), 54 FR 21691.

[12] The Commission notes that the rule change does not alleviate MBSD from liability for violation of the Federal securities laws where there exists a private right of action and therefore is not designed to adversely affect MBSD's compliance with the Federal securities laws and private rights of action that exist for violations of the Federal securities laws.

The Commission's approval of FICC's proposed rule change establishing a comprehensive standard of care and limiting MBSD's liability to its participants does not limit the standard of care required of MBSD by Rule 17f–4 of the Investment Company Act of 1940 and the Division of Investment Management's no-action letter to FICC deeming MBSD to be an eligible fund custodian under Rule 17f–4. Rule 17f–4 and the Division of Investment Management's no-action letter require MBSD to exercise, at a minimum, due care in accordance with reasonable commercial standards in discharging its duties as a securities intermediary. Fixed Income Clearing Corporation (March 13, 2003).

A negligence standard of care continues to be required for custodial clearing agency functions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2003–09) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–5653 Filed 3–11–04; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49372; File No. SR–FICC–2003–08]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Add Adjustable-Rate Mortgage Pass-Through Securities to the GCF Repo Service Repurchase Service

March 5, 2004.

I. Introduction

On August 11, 2003, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR–FICC–2003–08 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on January 28, 2004.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 49113 (January 22, 2004), 69 FR 4193.

II. Description

FICC is adding adjustable-rate mortgage pass-through securities ("ARMS")[3] to the GCF Repo service.[4] The Government Securities Division ("GSD") of FICC currently accepts Fannie Mae ("FNMA"), Freddie Mac ("FHLMC"), and Ginnie Mae ("GNMA") fixed-rate mortgage pass-through securities ("FRMs") as repurchase agreement collateral in its GCF Repo service. The GSD is adding ARMS to the GCF Repo service and amending the GSD Rules to include the appropriate schedules of margin factors, offset classes, and disallowances as they pertain to ARMS.[5]

The GSD believes that ARMS make a logical addition to the categories of securities currently processed in the GCF Repo service for several reasons. ARMS are generally less risky to FICC and investors than FRMs due to their rate reset feature and faster prepayment rates. Both of these factors contribute to shorter effective duration and price fluctuations that results in lower margin factors as compared to FRMs. In addition, the correlation factors between ARMS and Treasuries are generally higher than those between FRMs and Treasuries because the adjustable rate mortgage pass-through securities reflect more of the current rate conditions than the fixed rate mortgage pass-through securities. Thus, the disallowance factors of ARMS versus Treasuries are smaller than those of FRMs versus Treasuries.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.[6] The Commission finds that FICC's proposed rule change is consistent with this requirement because it will promote the prompt and accurate clearance and settlement of securities transactions by enabling the GSD to provide the benefits of its netting, risk management, and

[3] ARMS are mortgage loans in which the contract rates are reset periodically at a predetermined spread (or margin) over a specified reference index (such as the one-year Constance Maturity Treasury or 6 month LIBOR).

[4] The GSD's GCF Repo service enables dealer members to freely and actively transact GCF Repos throughout the day without requiring intraday, trade-for-trade settlement on a delivery-versus-payment basis.

[5] The GSD is also proposing to make technical corrections to the relevant schedules to remove references to "GSCC" or to replace them with references to the Government Securities Division as appropriate.

[6] 15 U.S.C. 78q–1(b)(3)(F).

settlement services to an expanded pool of securities for its GCF Repo service.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2003–08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–5654 Filed 3–11–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49374; File No. SR–NYSE–2004–10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Minimum Price Variation

March 8, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2004, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the NYSE. The NYSE filed the proposal pursuant to section 19(b)(3)(A) under the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 62, "Variations," to establish a minimum price variation of ten cents for equity securities trading on the NYSE at a price of $100,000 or higher. The text of the proposed rule change appears below; additions are *italicized.*

Variations

Rule 62 Bids or offers in securities admitted to trading on the Exchange may be made in such variations as the Exchange shall from time to time determine and make known to is membership.

Supplementary Material:

.10 Notwithstanding the provision for changing the minimum price variation in Rule 62, above, with respect to equity securities trading on the Exchange in decimal price variations pursuant to the phase-in of decimal pricing under the "Decimal Implementation Plan for the Equities and Options Markets," filed with the Securities and Exchange Commission on July 24, 2000, the minimum price variation shall be one cent (0.01).

.20 With respect to equity securities trading on the Exchange at a price of $100,000 or greater, the minimum price variation shall be ten cents ($.10).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Trading in decimals began on the NYSE on August 28, 2000. At that time, the Exchange amended NYSE Rule 62 to provide that bids and offers in securities traded on the NYSE will be at a minimum price variation set by the NYSE. At the initiation of decimal trading, the NYSE announced that the minimum price variation for all stocks trading on the Exchange would be one cent ($.01).

Currently, the Exchange's trading system technology does not support a minimum price variation of $.01 for stock prices above $99,999.99. Because one security listed on the Exchange currently is trading near this level, the Exchange proposes to amend NYSE Rule 62 to provide that the minimum price variation for stocks trading at a price of $100,000 or greater will be ten cents (to be shown as .1). The proposed change reflects the unique technological circumstances relating to trading at that price level. The Exchange does not believe that requiring a minimum variation of ten cents will impose any burden on investors trading in securities priced at $100,000 or greater.

2. Statutory Basis

According to the NYSE, the basis under the Act for the proposal is the requirement under Section 6(b)(5) of the Act[6] that a national securities exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The NYSE has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NYSE has filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The NYSE has asked the Commission to waive both the five-day pre-filing notice requirement and the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii), 17 CFR 240.19b–4(f)(6)(iii).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

(3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Rule 19b–4(f)(6)(iii) also requires a self-regulatory organization to provide the Commission with written notice of its intent to file a proposed rule change pursuant to Rule 19b–4(f)(6), along with a brief description and text of the proposed rule change, at least five business days prior to filing the proposed rule change, or such shorter time as the Commission designates. The NYSE has requested that the Commission waive both the five-day pre-filing notice requirement and the 30-day operative delay to allow the NYSE to implement the systems change needed to continue trading stocks priced at $100,000 or higher without interruption.

Although the Commission ordinarily would expect a proposed rule change to modify the minimum price variation to be filed pursuant to section 19(b)(2) of the Act,[9] the Commission believes that, under the narrow circumstances presented by the current proposal, it is appropriate for the NYSE to file the proposal pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. In this regard, the Commission notes that the proposed ten-cent minimum price variation would apply solely to equity securities priced at $100,000 or higher and that the trading of such securities raises unique technological issues for the Exchange. For the same reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and the Commission designates the proposal to be operative upon filing with the Commission.[10] Finally, the Commission has waived the five-day pre-filing notice requirement.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[9] 15 U.S.C. 78s(b)(2).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR–NYSE–2004–10. The file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2004–10 and should be submitted by April 2, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M Peterson,

Assistant Secretary.

[FR Doc. 04–5652 Filed 3–11–04; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4651]

Culturally Significant Objects Imported for Exhibition Determinations: "Gondola Days: Isabella Stewart Gardner and the Palazzo Barbaro Circle"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Gondola Days: Isabella Stewart Gardner and the Palazzo Barbaro Circle" imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Isabella Stewart Gardner Museum from on or about April 21, 2004, to on or about August 15, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr R. Sulzynsky, the Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–5078). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 5, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–5659 Filed 3–11–04; 8:45 am]

BILLING CODE 4710–08–P

TENNESSEE VALLEY AUTHORITY

Meeting Notice

AGENCY: Tennessee Valley Authority (Meeting No. 1550).

Time and Date: 9 a.m. (EST), March 16, 2004, University of Tennessee

Chattanooga, College of Engineering Building Auditorium, 735 Vine Street, Chattanooga, Tennessee.

Status: Open.

Agenda

Approval of minutes of meeting held on January 14, 2004.

New Business

C—Energy

C1. Delegation of authority to the Executive Vice President, Fossil Power Group, to enter into a contract with Union Pacific Railroad for transportation of coal to various TVA fossil plants and third-party river terminals.

C2. Supplement to Contract No. 99998999 with G-UB-MK Constructors to provide management and craft labor for the planning and execution of modification and supplemental maintenance work at TVA's fossil and hydro plants, and other TVA-controlled facilities, and completion of multiple Selective Catalytic Reduction projects at TVA-assigned fossil plants.

C3. Supplement to Contract No. 297 with ALSTOM Power, Inc., to provide parts and services for pulverizers and burners and related technical services.

C4. Contract with Alcan Cable for aluminum conductor to be used for construction and maintenance of TVA's transmission lines.

C5. Contract with Consolidated Pipe & Supply Company, Inc., for purchase of pipe, valves, fittings, and related materials for any TVA location.

E—Real Property Transactions

E1. Modification of certain deed restrictions affecting approximately 1.0 acre of former TVA land on Chickamauga Reservoir in Rhea County, Tennessee, Tract No. XCR–169, S.8X, to allow for construction of a house and for an existing fill and garage to remain on part of the property.

E2. Modification of certain deed restrictions affecting approximately 12.6 acres of former TVA land on Fort Loudoun Reservoir in Knox County, Tennessee, Tract Nos. XTFL–79, S.1X and XTFL–86, S.1X, to allow the property to be sold for residential development.

E3. Sale of a 30-year easement and a temporary construction easement to the Middle Tennessee Natural Gas Utility District for the construction and operation of a refined petroleum pipeline, affecting approximately 4.0 acres of land on Great Falls Reservoir in Warren County, Tennessee, Tract No. XGFR–36P.

E4. Grant of a permanent easement to the State of Tennessee for a highway improvement project, affecting approximately 13.76 acres of TVA land on Norris Reservoir in Grainger and Claiborne Counties, Tennessee, Tract No. XTNR–113H.

E5. Sale of a permanent easement to the City of Rockwood, Tennessee, for a road right-of-way, affecting approximately 0.5 acre of land at TVA's Rockwood Primary Substation in Roane County, Tennessee, Tract No. XTRWSS–1H.

E6. Grant of a noncommercial, nonexclusive permanent easement to Charles McLeroy for construction and maintenance of recreational water use facilities, affecting approximately 0.43 acre of land on Watts Bar Reservoir, Tract No. XWBR–715RE, in exchange for approximately 5.3 acres of land on Watts Bar Reservoir in Roane County, Tennessee, Tract WBR–1797.

E7. Grant of a permanent easement to the City of Parsons, Tennessee, for a raw water intake structure and waterline, affecting approximately 5.4 acres of TVA land on Kentucky Reservoir in Decatur County, Tennessee, Tract No. XTGIR–152E.

E8. Grant of a 30-year public recreation easement to Grainger County, Tennessee, for use as a public park, with an option to renew for additional 30-year terms, affecting approximately 90 acres of land on Cherokee Reservoir in Grainger County, Tennessee, Tract No. XTCK–67RE.

F—Other

F1. Approval to file condemnation cases to acquire easements and rights-of-way for a TVA power transmission line project affecting the Morgan Energy Center-General Motors Transmission Line in Limestone County, Alabama.

Information Items

1. Approval of a delegation of authority to add and remove Disclosure Control Committee members, and to amend TVA's Corporate Accountability and Disclosure Plan.

2. Approval of appointment of Janice K. Pulver as Assistant Secretary of TVA.

3. Approval of a contract pricing policy applicable to negotiations with distributors who have given notice that they are terminating their wholesale power contract with TVA and who later seek to negotiate a return to TVA service before that contract expires.

4. Approval of the recommendations resulting from the 68th Annual Wage Conference for Construction Project Hourly Wage Rates for 2004.

5. Approval of the recommendations resulting from the 68th Annual Wage Conference for Annual Trades and Labor employees for 2004.

6. Approval of a supplement to contract with Medco Health Solutions, Inc.

7. Approval of the sale of a permanent easement to the City of West Point, Mississippi, for commercial or light industrial development purposes, affecting approximately 4.14 acres in Clay County, Mississippi, Tract No. XWPAH–2E.

FOR FURTHER INFORMATION CONTACT: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: March 9, 2004.

Clifford L. Beach, Jr.,

Attorney and Assistant Secretary.

[FR Doc. 04–5735 Filed 3–10–04; 10:05 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–281]

WTO Dispute Settlement Proceeding Regarding Antidumping Measures on Cement From Mexico

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is providing notice that the Government of Mexico has requested the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") regarding various measures relating to the antidumping duty order on gray portland cement and cement clinker ("cement") from Mexico. Mexico alleges that determinations made by U.S. authorities concerning this product, and certain related matters, are inconsistent with Articles 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 18 and Annex II of the Agreement of Implementation of Article VI of the General Agreements on Tariffs and Trade 1994 ("AD Agreement"), Articles VI and X of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and Article XVI:4 of the WTO Agreement. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comment should be submitted on or before April 22, 2004, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0068@ustr.gov*, with "Mexico Cement Dispute" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the address above, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–3582.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that Mexico has requested the establishment of a dispute settlement panel pursuant to the WTO Dispute Settlement Understanding ("DSU"). The WTO Dispute Settlement Body ("DSB") has accepted Mexico's request and established a panel. The panelists, which will hold their meetings in Geneva, Switzerland, are currently being selected and would be expected to issue a report on its findings and recommendations within six to nine months from the date on which they are selected.

Major Issues Raised by Mexico

With respect to the measures at issue, Mexico's panel request refers to the following:

- The final results of the fifth through eleventh administrative reviews of the antidumping duty order on cement from Mexico, such reviews collectively covering the time period from August 1, 1994 to July 31, 2001. These final results, which were made by the U.S. Department of Commerce ("Commerce") are published at 62 FR 17148 (April 9, 1997); 63 FR 12764 (March 16, 1998); 64 FR 13148 (March 17, 1999); 65 FR 13943 (March 15, 2000); 66 FR 14889 (March 14, 2001); 67 FR 12518 (March 19, 2002); and 67 FR 12518 (January 14, 2003);
- The final sunset review determinations on cement from Mexico by Commerce (65 FR 41049 (July 3, 2000)), and the U.S. International Trade Commission ("ITC") (USITC Publication No. 3361 (October 2000) and 65 FR 65327 (November 1, 2000)), as well as the resulting continuation by Commerce of the antidumping order on cement from Mexico (65 FR 68979 (November 15, 2000));
- The dismissal by the ITC of a request for the institution of a changed circumstances review of the ITC's affirmative antidumping determination on cement from Mexico (66 FR 65740 (December 20, 2001));
- Sections 736, 737, 751, 752 and 778 of the Tariff Act of 1930;
- The URAA Statement of Administrative Action, H.R. Doc. No. 103–316, vol. 1 (1994);
- Commerce's Sunset Policy Bulletin (63 FR 18871 (April 16, 1998));
- Commerce's sunset review regulations, 19 CFR 351.218;
- The ITC's sunset review regulations, 19 CFR 207.60–69; and
- Portions of Commerce's regulations governing the calculation of dumping margins, 19 CFR 351.102, 351.212(f), 351.213(j), 351.403, and 351.414(c)(2).

With respect to the claims of WTO-inconsistency, Mexico's panel request refers to the following:

- With regard to the administrative reviews and Commerce's sunset review:
- Commerce's failure to revoke the antidumping duty order;
- Commerce's failure to establish domestic industry support for the imposition of antidumping duties; and
- Commerce's failure to otherwise bring the antidumping measures into conformity with U.S. WTO obligations.
- With regard to the sunset review conducted by the ITC:
- The ITC's "likely" standard, as such and as applied;
- The statutory requirements that the ITC determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury "within a reasonably foreseeable time" and that the ITC "shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time", both as such and as applied;
- The ITC's finding that "all or almost all" of the producers in the "Southern Tier" of the United States would suffer material injury in the event of the antidumping duty order being revoked;
- The ITC's failure to determine the "exceptional circumstances" and its incorrect determination that the appropriate region for purpose of analysing the effects of imports from Mexico was the grouping of states denominated the "Southern Tier";
- The ITC's failure to conduct an "objective examination" of the record based on "positive evidence";
- The ITC's failure to base its determination on a proper analysis of dumped imports, their effect on prices in the domestic market, and the consequent impact of the dumped imports on the domestic industry;
- The ITC's failure to evaluate all relevant economic factors and indices having a bearing on the state of the domestic industry;
- The ITC's failure to consider "any known factors other than the dumped imports"; and
- The ITC's improper consideration of the WTO-inconsistent margin reported by Commerce.
- With regard to the sunset review conducted by Commerce:
- Commerce's "likely" standard, its determination in this regard, and Commerce's calculation of the likely dumping margin reported to the ITC, as such and as applied;
- Commerce's standard for determining the "likely" dumping margin, its reliance on that margin, and its reporting of that margin to the ITC, as such and as applied; and
- Commerce's standard relating to duty absorption, its reliance on the dumping margin based on duty absorption, and its reporting of that margin to the ITC, as such and as applied.
- With regard to the ITC's determination to not initiate a changed circumstances review, the ITC's refusal to initiate the review after an interested party presented positive information substantiating the need for a review.
- With regard to Commerce's dumping margin calculation methodologies:
- Commerce's exclusion of domestic sales of identical Type II and Type V, LA cement;
- Commerce's comparison of sales of bagged and bulk cement;
- Commerce's calculation of a dumping margin without having compared the export price and the normal value on a weighted average basis or on a transaction-to-transaction basis;
- Commerce's use of "zeroing" with respect to so-called "negative dumping margins";
- Commerce's determination to levy antidumping duties on Mexican cement consigned for final consumption outside the "Southern Tier Region";
- Commerce's application of the so-called "arm's length" test to determine whether sales to related customers were in the ordinary course of trade;
- Commerce's improper application of the facts available by (i) failing to take account of cost-related evidence when making "difmer" adjustments; and (ii)

by calculating the dumping margin in the Seventh Administrative Review by using the facts available;

- Commerce's "amalgamation" of the firms Cementos de Chihuahua, S.A. de C.V. and CEMEX S.A. de C.V. in order to calculate a single weighted average dumping margin; and
- Commerce's "duty absorption" standard and the use of that finding in the calculation of the dumping margin reported to the ITC, as such and as applied.
- With regard to the imposition of antidumping duties on imports of cement from Mexico:
- The U.S. retrospective duty assessment system; and
- The U.S. requirement that interest be paid over and above the amount of the dumping margin.
- With regard to failure on the part of Commerce and the ITC to apply U.S. antidumping laws, regulations, decisions and rulings in a uniform, impartial and reasonable manner:
- Commerce's imposition of additional requirements on foreign parties, greater than those imposed on domestic parties, in response to Commerce's sunset initiation notice;
- Commerce's imposition of a more stringent standard on foreign parties than on the regional industry for assessing the adequacy of participation in sunset review process;
- The ITC's verification of information submitted by CEMEX and the failure to verify information submitted by members of the regional industry;
- Commerce's "below cost" investigations;
- The ITC's failure to require producers to provide sufficient detail to permit exporters to have a reasonable understanding of the substance of the information in the record.

Requirements for Submissions

Interested person are invited to submit written comments concerning the issues raised in this dispute. Persons submitting the comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to *Fr0068@ustr.gov*. with "Mexico Cement Dispute" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically, to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Comments must be in English. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of each page of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, D.C. 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 04–5588 Filed 3–11–04; 8:45 am]

BILLING CODE 3190–W3–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–291]

WTO Dispute Settlement Proceeding Regarding Measures of the European Communities Affecting the Approval and Marketing of Biotech Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on March 4, 2004, a dispute settlement panel was composed under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") concerning measures of the European Communities (EC) affecting the approval and marketing of the products of agricultural biotechnology ("biotech products"). USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept comments received throughout the course of the dispute settlement proceedings, comments should be received on or before April 6, 2004, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted either (i) electronically, to *FR040@ustr.gov*, with "EC-Biotech Dispute" in the subject line, or (ii) by fax, to Sandy McKinzy at 202–395–3640 with a confirmation copy sent electronically to the e-mail address above.

FOR FURTHER INFORMATION CONTACT: William Busis, Associate General Counsel, (202) 395–3150, or Richard White, Director, Sanitary and Phytosanitary Affairs, (202) 395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)), USTR is providing notice that, at the request of the United States, the WTO Dispute Settlement Body (DSB) has composed a panel to examine EC measures affecting the approval and marketing of biotech products. The DSB has also composed panels at the request of Argentina and Canada to examine the EC measures. The three proceedings have been combined and will be heard by a single panel.

Since October 1998, the EC has applied a moratorium on the approval of biotech products. Pursuant to the moratorium, the EC has suspended consideration of applications for, or granting of, approval of biotech

products under the EC approval system. In particular, the EC has blocked in the approval process under EC legislation all applications for placing biotech products on the market, and has not considered any application for final approval. The approvals moratorium has restricted imports of agricultural and food products from the United States.

In addition, EC member States maintain a number of national marketing and import bans on biotech products even though those products have already been approved by the EC for import and marketing in the EC. The national marketing and import bans have restricted imports of agricultural and food products from the United States.

The United States panel request explains that the United States considers that these measures of the EC and its member States are inconsistent with the EC's obligations under the *Agreement on the Application of Sanitary and Phytosanitary Measures* ("SPS Agreement"), the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), the *Agreement on Agriculture* ("Agriculture Agreement"), and the *Agreement on Technical Barriers to Trade* ("TBT Agreement"). The specific EC measures are as follows:

(1) The suspension by the EC of consideration of applications for, or granting of, approval of biotech products;

(2) The failure by the EC to consider for approval applications for the biotech products mentioned in Annexes I and II to this notice; and

(3) National marketing and import bans maintained by EC member States, as described in Annex III to this notice.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised by the United states in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at 202–395–3640, or transmit a copy electronically to *FR0401@ustr.gov*, with "EC-Biotech Dispute" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of each page of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, D.C. 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

Annex I—Applications Under EC Directives 2001/18 and 90/220—Deliberate Release

Bayer oilseed rape (MS1/RF1)
Bayer hybrid oilseed rape (MS1/RF2)
Bejo Zaden red-hearted chicory (RM3–3, RM3–4 and RM3–6)
Bayer oilseed rape (Falcon GS40/90)
Bayer hybrid oilseed rape (MS8/RF3)
Trifolium/Monsanto/Danisco Roundup Ready fodder beet (A5/15)
Monsanto Bt cotton (531)
Monsanto Roundup Ready cotton (RRC1445)
Amylogene starch potato
Bayer winter oilseed rape (Liberator pHoe6/Ac)
Syngenta glufosinate tolerant and Bt resistant (Bt–11) corn
Monsanto Roundup Ready corn (GA 21)
Monsanto Roundup Ready oilseed rape (GT73)
Syngenta Bt hybrid corn (Bt–11)
Monsanto Roundup Ready oilseed rape (GT73)
Bayer Liberty Link soybeans (A2704–12 and A5547–127)
Monsanto/Syngenta Roundup Ready sugar beet
Bayer Liberty Link oilseed rape (T45 & Topas 19/2) (stack)
Stoneville BXN cotton (10215, 10222, 10224) (formerly held by Aventis and Calgene)
Monsanto MaisGard Roundup Ready (MON 810 & GA21) corn (Stack)
Bayer Liberty Link sugar beet (T120–7)
Pioneer/Dow AgroSciences Bt corn Cry1F (1507)
Pioneer/Dow AgroSciences Bt corn Cry1F (1507)
Monsanto Roundup Ready corn (NK603)
Pioneer Bt corn (MON 809)
Zeneca extended shelf life tomato (TGT7–F)
Monsanto Roundup Ready corn (GA 21)
Pioneer Liberty Link and Bt (T25 & MON 810) corn (stack)
Pioneer/Dupont high-oleic soybean (260–05)

Annex II—Applications Under EC Regulation 258/97—Novel Foods

Bejo-Zaden Transgenic Radicchio rosso
Bejo-Zaden Transgenic Green hearted chicory
Monsanto Roundup Ready corn (GA21)
Syngenta Bt–11 sweet corn
Pioneer/Dupont high-oleic soybean (260–05)
Bayer LibertyLink soybeans
Monsanto MaisGard Roundup Ready corn (GA 21& MON 810) (stack)
Monsanto/Syngenta Roundup Ready sugar beet (77)
Pioneer/Dow AgroSciences Bt corn Cry1F (1507)
Monsanto Roundup Ready corn (NK603)
Pioneer Liberty Link and Bt (T25 x MON 810) corn (stack)

Annex III—EC Member State Marketing and Import Bans

Austria Corn: Bt–176, MON 810, T25

France Repeseed: C/UK/95/M5/1; and C/UK/94/M1/1
Germany Corn: Bt–176
Greece Rapeseed: Topas 19/2
Italy Corn: Bt–11, MON 809, MON 810, T25
Luxembourg Corn: Bt–176

[FR Doc. 04–5589 Filed 3–11–04; 8:45 am]

BILLING CODE 3190–W3–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airport Noise Compatibility Program; Noise Exposure Maps; Fort Lauderdale Executive Airport, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Fort Lauderdale, Florida for the Fort Lauderdale Executive Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is February 19, 2004.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Baskin, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32822, (407) 812–6331, Extension 130.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Fort Lauderdale Executive Airport are in compliance with applicable requirements of Part 150, effective February 19, 2004. Under 49 U.S.C. section 47503 of the Aviation Safety and Notice Abatement Act (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the City of Fort Lauderdale, Florida. The documentation that constitutes the "noise exposure maps" as defined in § 150.7 of Part 150 includes: Figure 53: 2002 Noise Exposure Map with Existing Noise Compatibility Program, Figure 54: 2007 Noise Exposure Map with Revised Noise Compatibility Program, Figure 11: Noise Measurement Locations, Figure 30: Runway 08 Departure and Arrival Flight Tracks and Usage, Figure 31: Runway 26 Departure and Arrival Flight Tracks and Usage, Figure 32: Runway 13 Departure and Arrival Flight Tracks and Usage, Figure 33: Runway 31 Departure and Arrival Flight Tracks and Usage, Figure 34: Helicopter Departure and Arrival Flight Tracks and Usage, Figure 35: Touch-and-Go Flight Tracks and Usage, Table 7: 2002 Modeled Average Daily Aircraft Operations, Table 8: 2007 Modeled Average Daily Aircraft Operations, and Table 34: Population within DNL Contours for the 2002 NEM with Existing NCP, and for the 2007 NEM with the Revised NCP. The document states that there are no known structures included in or eligible for inclusion in the National Register of Historic Places located within the 65 DNL contour (page 160). The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on February 19, 2004.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822.

Ms Clara Bennett, Acting Airport Manager, Fort Lauderdale Executive Airport, 6000 NW 21st Avenue, Suite 200, Fort Lauderdale, Florida 33309.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Orlando, Florida, February 19, 2004.

Bart Vernace,

Acting Manager, Orlando Airports District Office.

[FR Doc. 04–5689 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–14]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code

of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 1, 2004.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–2003–15941] by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: John Linsenmeyer (202) 267–5174, Tim Adams (202) 267–8033, or Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 9, 2004.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petition for Exemption

Docket No.: FAA–2003–15941.

Petitioner: Gustl Spreng Enterprises.

Section of 14 CFR Affected: 14 CFR 21.191(d).

Description of Relief Sought: To permit Gustl Spreng Enterprises to operate L–29, L–39, and MiG–15UTI aircraft, which hold experimental airworthiness certificates, for the purpose of carrying passengers for compensation or hire.

[FR Doc. 04–5677 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–15]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 1, 2004.

ADDRESSES: You may submit comments (identified by DOT DMS Docket Number FAA–200X–XXXXX) by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Linsenmeyer (202) 267–5174, Tim Adams (202) 267–8033, or Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 9, 2004.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2004–16893.

Petitioner: Lockheed Martin Corporation, Systems Integration.

Section of 14 CFR Affected: 14 CFR 45.29(b)(3).

Description of Relief Sought: To permit Lockheed Martin Corporation, Systems Integration to display 2-inch nationality and registration marks on certain rotorcraft, instead of the required 12-inch marks.

Docket No.: FAA–2004–17026.

Petitioner: Evergreen Helicopters of Alaska, Inc.

Section of 14 CFR Affected: 14 CFR 43.3(g).

Description of Relief Sought: To permit pilots employed by Evergreen Helicopters of Alaska, Inc. to accomplish certain maintenance procedures without holding an A&P mechanic certificate.

[FR Doc. 04–5678 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–16]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Denise Emrick (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 9, 2004.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–11573.
Petitioner: Avcenter, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Avcenter Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.
Grant, 3/1/2004, Exemption No. 7204B.

Docket No.: FAA–2000–8471.
Petitioner: Termikas, USA.
Section of 14 CFR Affected: 14 CFR 21.183(c).
Description of Relief Sought/Disposition: To permit Termikas, USA, to obtain a standard airworthiness certificate for each of its LET, a.s., model L–13 Blanik sailplanes without a statement from the country of manufacture certifying the airworthiness of each sailplane.
Denial, 2/20/2004, Exemption No. 8259.

Docket No.: FAA–2002–12485.
Petitioner: Mr. Manuel A. Castasus.
Section of 14 CFR Affected: 14 CFR 121.311(b) and 135.128(a).
Description of Relief Sought/Disposition: To permit Joseph, Mr. Manuel A. Castasus's son, to travel in either an Ortho Kinetics Travel Chair Model 6332 or a MERU Travel Chair, without him occupying an FAA-approved seat or berth with a separate belt properly secured about him during movement on the surface, takeoff, and landing, subject to certain conditions and limitations.
Grant, 3/1/2004, Exemption No. 7831A.

Docket No.: FAA–2002–12534.
Petitioner: University of Illinois, Institute of Aviation.
Section of 14 CFR Affected: 14 CFR 141.55(d)(3) and (e)(4) and 141.63(b)(4).
Description of Relief Sought/Disposition: To permit the University of Illinois, Institute of Aviation to hold examining authority for its FAA-approved training course that does not meet the minimum ground flight training time requirements of part 141, subject to certain conditions and limitations.
Grant, 3/1/2004, Exemption No. 7921A.

Docket No.: FAA–2002–11756.
Petitioner: Continental Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/Disposition: To permit Continental Airlines, Inc., to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command who is completing the initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing, subject to certain conditions and limitations.
Grant, 3/1/2004, Exemption No. 6783C.

Docket No.: FAA–2002–11986.
Petitioner: Experimental Aircraft Association.
Section of 14 CFR Affected: 14 CFR 61.113(a).
Description of Relief Sought/Disposition: To permit volunteer pilots who hold private pilot certificates to conduct Experimental Aircraft Association Young Eagles flights for compensation to include meals for the participants, aircraft operating expenses, aircraft and airport security costs, and logging of flight time as pilot in command, subject to certain conditions and limitations.
Grant, 2/29/2004, Exemption No. 7830A.

Docket No.: FAA–2002–11939.
Petitioner: Civil Air Patrol.
Section of 14 CFR Affected: 14 CFR subpart F of part 91.
Description of Relief Sought/Disposition: To permit the Civil Air Patrol to operate small aircraft under subpart F of part 91 and receive limited reimbursement for certain flights within the scope of and incidental to the Civil Air Patrol's corporate purposes and U.S. Air Force Auxiliary status.
Grant, 2/29/2004, Exemption No. 6485D.

Docket No.: FAA–2002–12123.
Petitioner: Bonanza/Baron Pilot Proficiency Programs, Inc. and the American Bonanza Society/Air Safety Foundation.
Section of 14 CFR Affected: 14 CFR 91.109(a) and (b)(3).
Description of Relief Sought/Disposition: To permit the Bonanza/Baron Pilot Proficiency Programs, Inc. and the American Bonanza Society/Air Safety Foundation to conduct certain flight instruction and simulated instrument flights to meet the recent experience requirements in Beechcraft Bonanza, and Travel Air airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.
Grant, 2/29/2004, Exemption No. 7810A.

Docket No.: FAA–2002–13153.
Petitioner: Ottumwa Flying Service, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Ottumwa Flying Service, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.
Grant, 3/1/2004, Exemption No. 7905A.

Docket No.: FAA–2002–12729.
Petitioner: Evergreen Helicopters of Alaska, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Evergreen Helicopters of Alaska, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.
Grant, 3/1/2004, Exemption No. 7843A.

Docket No.: FAA–2001–8750.
Petitioner: Community College of the Air Force.
Section of 14 CFR Affected: 14 CFR 147.31(c)(2)(iii).
Description of Relief Sought/Disposition: To permit the Community College of the Air Force to allow U.S. Air Force aviation maintenance technicians who have completed military aviation maintenance training courses to be evaluated using the same criteria that is used for the civilian sector.
Grant, 2/10/2004, Exemption No. 8251.

Docket No.: FAA–2004–17069.
Petitioner: Skyward Air, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Skyward Air, LLC, to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft.

Grant, 2/23/2004, Exemption No. 8257.

[FR Doc. 04–5679 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–17]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Denise Emrick (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 9, 2004.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2003–16491.
Petitioner: Department of the Army.
Section of 14 CFR Affected: 14 CFR 105.19(a) and (b).
Description of Relief Sought/ Disposition: To permit the Department of the Army, 2nd Battalion, 75th Ranger Regiment to conduct night parachute operations using parachutes with no illumination, outside of the special use airspace at Fort Lewis, Washington.
Grant, 2/20/2004, Exemption No. 8255.

Docket No.: FAA–2004–17087.
Petitioner: Joint Special Operations Command.
Section of 14 CFR Affected: 14 CFR 105.17, and 105.19(a) and (b).
Description of Relief Sought/ Disposition: To permit the Joint Special Operations Command forces to conduct night parachute operations using parachutes with no illumination, through clouds, outside of the special use airspace, at and below 1,500 feet above ground level (AGL).
Grant, 2/20/2004, Exemption No. 8256.

Docket No.: FAA–2001–8811.
Petitioner: Aero Sky.
Section of 14 CFR Affected: 14 CFR 145.37(b).
Description of Relief Sought/ Disposition: To permit Aero Sky to continue to hold an FAA repair station certificate (certificate No. KQ7R556N) without having suitable permanent housing facilities for at least one of the heaviest aircraft within the weight class of the rating it holds.
Grant, 2/20/2004, Exemption No. 6673E.

Docket No.: FAA–2002–11508.
Petitioner: Premier Jets, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Premier Jets, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.
Denial, 2/17/2004, Exemption No. 7160B.

Docket No.: FAA–2001–8750.
Petitioner: Community College of the Air Force.
Section of 14 CFR Affected: 14 CFR 147.31(c)(2)(iii).
Description of Relief Sought/ Disposition: To permit the Community College of the Air Force to allow U.S. Air Force aviation maintenance technicians who have completed military aviation maintenance training courses to be evaluated using the same criteria that is used for the civilian sector.
Grant, 2/10/2004, Exemption No. 8251.

Docket No.: FAA–2003–15659.
Petitioner: F & E Aircraft Maintenance (Miami), LLC.
Section of 14 CFR Affected: 14 CFR 145.35 and 145.37(b).
Description of Relief Sought/ Disposition: To permit F&E Aircraft Maintenance (Miami), LLC to qualify for a repair station airframe rating without having suitable permanent housing for at least one of the heaviest aircraft within the weight class of the rating it seeks.
Denial, 2/2/2004, Exemption No. 8249.

Docket No.: FAA–2002–11284.
Petitioner: Tulsa Air & Space Center Airshows, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit Tulsa Air & Space Center Airshows, Inc., to operate its North American B–25 (B25) aircraft for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes.
Grant, 2/12/2004, Exemption No. 8253.

Docket No.: FAA–2003–16809.
Petitioner: Kalitta Charters II LLC.
Section of 14 CFR Affected: 14 CFR 61.3(a) and (c)(1) and 121.383(a)(2).
Description of Relief Sought/ Disposition: To permit Kalitta Charters II LLC pilots to operate aircraft, on a temporary basis, without having their pilot and medical certificates in their physical possession or readily accessible in the aircraft.
Grant, 2/12/2004, Exemption No. 8252.

Docket No.: FAA–2001–9160.
Petitioner: Florida Department of Law Enforcement.
Section of 14 CFR Affected: 14 CFR 91.159(a) and 91.209(a) and (b).
Description of Relief Sought/ Disposition: To permit Florida Department Law Enforcement to conduct operations in support of law enforcement and drug traffic interdiction without complying with visual flight aircraft position and anticollision lights while operating between sunset and sunrise.
Grant, 2/12/2004, Exemption No. 3596H.

Docket No.: FAA–2002–13585.
Petitioner: Mr. Timothy P. Davis.
Section of 14 CFR Affected: 14 CFR 65.71(a)(3).
Description of Relief Sought/ Disposition: To permit Mr. Timothy P. Davis to be eligible for a mechanic certificate with a powerplant rating without having passed all the prescribed tests within 24 months.
Grant, 2/9/2004, Exemption No. 8250.

Docket No.: FAA–2002–12117.
Petitioner: Alaska Air Taxi.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Alaska Air Taxi to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.
Grant, 2/9/2004, Exemption No. 7247B.

Docket No.: FAA–2004–16936.
Petitioner: Northwest Helicopters, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Northwest Helicopters, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 2/9/2004, Exemption No. 8247.

Docket No.: FAA–2002–11485.

Petitioner: Southwest Airlines Company.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/ Disposition: To permit Southwest Airlines Company to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) while that PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing when completing initial or upgrade training as specified in § 121.424.

Grant, 2/4/2004, Exemption No. 7132B.

Docket No.: FAA–2004–16933.

Petitioner: Mr. Kirk A. McCarty.

Section of 14 CFR Affected: 14 CFR 61.197.

Description of Relief Sought/ Disposition: To permit Mr. Kirk A. McCarty an extension to March 31, 2004, on his current certified flight instructor certificate.

Denial, 2/4/2004, Exemption No. 8246.

Docket No.: FAA–2002–11554.

Petitioner: Adeletom Aviation, LLC.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Adeletom Aviation, LLC to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 2/4/2004, Exemption No. 7201B.

Docket No.: FAA–2002–11767.

Petitioner: Atlantic Aero, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Atlantic Aero, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 2/4/2004, Exemption No. 6459E.

Docket No.: FAA–2002–11759.

Petitioner: Aero Charter, Inc.

Section of 14 CFR Affected: 14 CFR 135.143 (c)(2).

Description of Relief Sought/ Disposition: To permit Aero Charter, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 2/4/2004, Exemption No. 7250B.

Docket No.: FAA–2002–11567.

Petitioner: King Airelines, Inc.

Section of 14 CFR Affected: 14 CFR 135.143 (c)(2).

Description of Relief Sought/ Disposition: To permit King Airelines Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 2/4/2004, Exemption No. 6093D.

Docket No.: FAA–2004–17020.

Petitioner: Charter Direct, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Charter Direct Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 2/4/2004, Exemption No. 8245.

Docket No.: FAA–2004–16998.

Petitioner: Pavco, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Pavco Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 2/4/2004, Exemption No. 8244.

Docket No.: FAA–2004–16994.

Petitioner: Helicopters, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Helicopters, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

Grant, 2/4/2004, Exemption No. 8243.

Docket No.: FAA–2001–10876.

Petitioner: Experimental Aircraft Association, Inc.

Section of 14 CFR Affected: 14 CFR 91.319(a)(2), and 119.21(a).

Description of Relief Sought/ Disposition: To permit Experimental Aircraft Association, Inc., to operate its Spirit of St. Louis airplane for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes.

Grant, 1/28/2004, Exemption No. 6541F.

Docket No.: FAA–2000–8190.

Petitioner: Atlas Air, Inc.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/ Disposition: To permit Atlas Air, Inc., to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing.

Grant, 1/29/2004, Exemption No. 8240.

Docket No.: FAA–2003–16625.

Petitioner: Alaska Juneau Aeronautics, Inc., d.b.a. Wings of Alaska.

Section of 14 CFR Affected: 14 CFR 135.203(a)(1).

Description of Relief Sought/ Disposition: To permit Alaska Juneau Aeronautics, Inc., d.b.a. Wings of Alaska to operate under visual flight rules outside controlled airspace over water at an altitude below 500 feet.

Grant, 1/28/2004, Exemption No. 8242.

Docket No.: FAA–2003–16695.

Petitioner: Mr. Hugh G. Bale.

Section of 14 CFR Affected: 14 CFR 121.383(c).

Description of Relief Sought/ Disposition: To permit Mr. Hugh G. Bale to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

Denial, 1/28/2004, Exemption No. 8241.

Docket No.: FAA–2001–9874.

Petitioner: Civil Air Patrol.

Section of 14 CFR Affected: 14 CFR 61.113(e) and 119.1(a).

Description of Relief Sought/ Disposition: To permit Civil Air Patrol (CAP) to reimburse CAP members who are private pilots for fuel, oil, supplemental oxygen, fluids, lubricants, preheating, deicing, airport expenses, servicing, and maintenance expenses, and certain per diem expenses incurred while serving on official U.S. Air Force (USAF)-assigned CAP missions. Additionally, this exemption permits certain CAP operations, including CAP/ Air Force Reserve Officers' Training Corps (AFROTC) cadet orientation flights.

Grant, 1/28/2004, Exemption No. 6771C.

Docket No.: FAA–2002–11555.

Petitioner: United Parcel Service.

Section of 14 CFR Affected: 14 CFR 121.433(c)(1)(iii), 121.440(a), 121.441(a)(1) and (b)(1), and appendix F to part 121.

Description of Relief Sought/ Disposition: To permit United Parcel Service (UPS) to combine recurrent flight and ground training and proficiency checks for UPS's pilots in command (PIC), seconds in command (SIC), and flight engineers in a single annual training and proficiency evaluation program.

Grant, 1/29/2004, Exemption No. 6434D.

Docket No.: FAA–2002–11291.

Petitioner: Northwest Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/ Disposition: To permit Northwest Airlines, Inc. to substitute a qualified and authorized check airman in place of an FAA inspector to observe a

qualifying pilot in command who is completing the initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing, subject to certain conditions and limitations.

Grant, 1/28/2004, Exemption No. 6782C.

Docket No.: FAA–2002–11937.
Petitioner: TBM, Inc., and Butler Aircraft Co.
Section of 14 CFR Affected: 14 CFR 91.611.
Description of Relief Sought/ Disposition: To permit T.B.M., Inc. and Butler Aircraft Co., to conduct ferry flights with one engine inoperative on their McDonnell Douglas DC–6 airplane (registration No. N90739) and DC–7 airplanes (registration Nos. N401US, N6318C, N6353C, N756Z, and N838D) without obtaining a special flight permit for each flight.

Grant, 1/28/2004, Exemption No. 5204G.

Docket No.: FAA–2002–11599.
Petitioner: Honolulu Community College.
Section of 14 CFR Affected: 14 CFR 65.75(b).
Description of Relief Sought/ Disposition: To permit Honolulu Community College (HCC) to use a continuous practical examination program in which each student undergoes FAA oral and practical testing concurrent with HCC's training program as an integral part of the education process.

Grant, 1/27/2004, Exemption No. 6764C.

Docket No.: FAA–2002–11285.
Petitioner: Commemorative Air Force.
Section of 14 CFR Affected: 14 CFR 91.315, 91.319(a), 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit Commemorative Air Force to fly World War II (WWII) vintage military airplanes in air shows and other aviation events, or with passengers, for the purpose of preserving U.S. military aviation history and experience flight in a historic aircraft.

Grant, 1/30/2004, Exemption No. 6802C.

Docket No.: FAA–2000–8531.
Petitioner: Hamilton Sundstrand Corporation.
Section of 14 CFR Affected: 14 CFR 21.325(b)(3).
Description of Relief Sought/ Disposition: To permit Hamilton Sundstrand Corporation (HSC) to issue export airworthiness approval tags for class II and class III products manufactured at HSC's Singapore facility.

Grant, 1/26/2004, Exemption No. 7841A.

Docket No.: FAA–202–11506.
Petitioner: The Boeing Company.
Section of 14 CFR Affected: 14 CFR 21.197.
Description of Relief Sought/ Disposition: To permit The Boeing Company (Boeing) to conduct training of Boeing's pilot flight crewmembers while operating under special flight permits issued for the purpose of production flight testing.

Grant, 1/26/2004, Exemption No. 4936F.

Docket No.: FAA–2001–10414.
Petitioner: Air Cargo Carriers, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Air Cargo Carriers, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 1/30/2004, Exemption No. 7124B.

Docket No.: FAA–2001–10221.
Petitioner: Air Wisconsin Airlines Corporation.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/ Disposition: To permit Air Wisconsin Airlines Corporation to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing subject to certain conditions and limitations.

Grant, 1/29/2004, Exemption No. 7778A.

Docket No.: FAA–2001–10013.
Petitioner: Southwest Airlines.
Section of 14 CFR Affected: 14 CFR 121.623(a) and (d), 121.643, and 121.645(e).
Description of Relief Sought/ Disposition: To permit Southwest Airlines to conduct supplemental operations within 48 contiguous United States and the District of Columbia using the flight regulations for alternate airports as required by § 121.619 and the fuel reserve regulations as required by § 121.639 that are applicable to domestic operations.

Grant, 1/27/2004, Exemption No. 8238.

Docket No.: FAA–2002–11768.
Petitioner: Twin Otter International, Ltd.
Section of 14 CFR Affected: 14 CFR 121.345(c)(2) and 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Twin Otter International, Ltd. to operate certain aircraft under part 121 and part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 1/15/2004, Exemption No. 6111D.

Docket No.: FAA–2002–11575.
Petitioner: Rhinelander Flying Service.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Rhinelander Flying Service to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 1/15/2004, Exemption No. 7793A.

Docket No.: FAA–2003–16804.
Petitioner: Airtime Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Airtime Aviation, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 1/15/2004, Exemption No. 8232.

Docket No.: FAA–2004–16902.
Petitioner: Selway Aviation, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Selway Aviation, LLC to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 1/15/2004, Exemption No. 8231.

Docket No.: FAA–2004–16862.
Petitioner: LRT Company, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit LRT Company, LLC to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 1/15/2004, Exemption No. 8230.

Docket No.: FAA–2002–11940.
Petitioner: Zebra Air, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Zebra Air, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Denial, 1/20/2004, Exemption No. 6407D.

Docket No.: FAA–2004–16903.
Petitioner: R & R Aviation, LLC.
Section of 14 CFR Affected: 14 CFR 91.207(f)(1).

Description of Relief Sought/ Disposition: To permit R & R Aviation, LLC to operate certain aircraft without having an approved automatic emergency locator transmitter (ELT) that is in operable condition until such a time that ELT equipment may be installed.

Denial, 1/16/2004, Exemption No. 8236.

Docket No.: FAA–2004–16900.

Petitioner: Pro Air Cargo & Consulting, Inc. d.b.a. PACCAIR.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Pro Air Cargo & Consulting, Inc. d.b.a. PACCAIR to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 1/15/2004, Exemption No. 8229.

Docket No.: FAA–2002–11458.

Petitioner: Northern Air Fuel, Inc.

Section of 14 CFR Affected: 14 CFR 91.9(a).

Description of Relief Sought/ Disposition: To permit Northern Air Fuel, Inc., to operate its DC–6A and DC–6B aircraft, registration Nos. N7780B, N4206L, N7919C, N434TA, N6204U, and N1377K, at a 5 percent increased zero fuel and landing weight for the purpose of operating all-cargo aircraft to provide supplies to people in isolated villages in Alaska.

Grant, 1/13/2004, Exemption No. 7709A.

Docket No.: FAA–2003–16820.

Petitioner: Mr. James Ray Smith.

Section of 14 CFR Affected: 14 CFR 91.109(a).

Description of Relief Sought/ Disposition: To permit Mr. James Ray Smith to conduct certain flight training in certain Beechcraft Bonanza/Debonair airplanes that are equipped with a functioning throw-over control wheel.

Grant, 1/13/2004, Exemption No. 8227.

Docket No.: FAA–2003–16837.

Petitioner: Mr. Brian R. Younge.

Section of 14 CFR Affected: 14 CFR 91.207(a)(1).

Description of Relief Sought/ Disposition: To permit Mr. Brian R. Younge to operate a Cessna Citation 501SP, N642BJ, without having an approved automatic emergency locator administrator (ELT) that is in operable condition until such a time that ELT equipment may be installed.

Denial, 1/14/2004, Exemption No. 8228.

Docket No.: FAA–2001–9369.

Petitioner: Department of Homeland Security, Bureau of Immigration and Customs Enforcement, Office of Air and Marine Interdiction.

Section of 14 CFR Affected: 14 CFR 91.117(a), (b), and (c), 91.119(c), 91.159(a), and 91.209(a) and (d).

Description of Relief Sought/ Disposition: To permit the Department of Homeland Security, Bureau of Immigration and Customs Enforcement, Office of Air and Marine Interdiction (OAMI) to operate its aircraft: (1) Close enough to other aircraft to visually identify distinguishing aircraft characteristics, communicate with hand signals, and divert nonresponding aircraft; and (2) in controlled airspace with each aircraft's operable air traffic control transponder turned off.

Grant, 6/16/2003, Exemption No. 5504D.

Docket No.: FAA–2002–11928.

Petitioner: Mid Atlantic Freight, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Mid Atlantic Freight, Inc. (Mid Atlantic) to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant, 2/25/2004, Exemption No. 7291B.

[FR Doc. 04–5680 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Government/Industry Aeronautical Charting Forum Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the bi-annual meeting of the Federal Aviation Administration's Government/Industry Aeronautical Charting Forum (ACF) to discuss informational content and design of aeronautical charts and related products, as well as instrument flight procedures policy and criteria.

DATES: The ACF is separated into two distinct groups. The Instrument Procedures group will meet April 26 and 27, 2004 from 9 a.m. to 4:30 p.m. The Charting Group will meet April 28 and 29, 2004 from 9 a.m to 4:30 p.m.

ADDRESSES: The meeting will be held at the Air Line Pilots Association (ALPA), 535 Herndon Parkway, Herndon, VA 20172.

FOR FURTHER INFORMATION CONTACT: For information relating to the Instrument Procedures Group, contact Thomas E. Schneider, flight Procedures Standards Branch, AFS–420, 6500 South MacArthur Blvd, P.O. Box 25082, Oklahoma City, OK 73125; telephone (405) 954–5852; fax: (405) 954–2528. For information relating to the Charting Group, contact Richard V. Powell, FAA, Air Traffic Airspace Management, ATA–100, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8790, fax: (202) 493–4266.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.II), notice is hereby given of a meeting of the Government/ Industry Aeronautical Charting Forum to be held from April 26 to April 29, 2004, from 9 a.m. to 4:30 p.m. at the Air Line Pilots Association, 535 Herndon Parkway, Herndon, VA 20172.

The Instrument Procedures Group agenda will include briefings and discussions on recommendations regarding pilot procedures for instrument flight, as well as criteria, design, and developmental policy for instrument approach and departure procedures.

The Charting Group agenda will include briefings and discussions on recommendations regarding aeronautical charting specifications, flight information products, as well as new aeronautical charting and air traffic control initiatives.

Attendance is open to the interested public, but will be limited to the space available.

The public must make arrangements by April 9, 2004, to present oral statements at the meeting. The public may present written statements and/or new agenda items to the committee by providing a copy to the person listed in the **FOR FURTHER INFORMATION CONTACT** section by April 9, 2004. Public statements will only be considered if time permits.

Issued in Washington, DC, on March 8, 2004.

Richard V. Powell,

Co-Chair, Government/Industry, Aeronautical Charting Forum.

[FR Doc. 04–5690 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application 04–07–C–00–LSE to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at La Crosse Municipal Airport, La Crosse, WI.

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Intent to Rule on Application

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at La Crosse Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 12, 2004.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA, must be mailed or delivered to Dan R. Wruck, Airport Manager of the La Crosse Municipal Airport at the following address: La Crosse Municipal Airport, 2850 Airport Road, La Crosse WI 54603.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of La Crosse under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Program Manager, Minneapolis Airports District Office, 6020 28th Avenue South Room 102, Minneapolis, MN 55450, 612–713–4363. The application may be reviewed in person at the same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue form a PFC at La Crosse Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations 914 CFR Part 158).

On February 25, 2004, the FAA determined that the application to impose and use the revenue from a PFC submitted by city of La Crosse was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 3, 2004.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: May 1, 2005.

Proposed charge expiration date: December 1, 2008.

Total estimated PFC revenue: $1,513,997.

Brief description of proposed projects: Reconstruct taxiway B and East apron, airfield electrical improvements, acquire aircraft rescue and firefighting truck, acquire snow removal equipment (broom), reconstruct taxiways G, H, and F, PFC administration.

Class of classes of air carriers, which the public agency has requested, not be required to collect PFCs: no request to exclude carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of La Crosse.

Dated: Issued in Des Plaines, IL on March 5, 2004.

Barbara Jordan,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 04–5688 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 2003, there were seven applications approved. This notice also includes information on one application, approved in November 2003, inadvertently left off the November 2003 notice. Additionally, nine approved amendments to previously approved application are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: MBS International Airport Commission, Saginaw, Michigan.

Application Number: 03–05–C–00–MBS.

Application Type: Impose and use a PFC.

PFC Level: $3.00

Total PFC Revenue Approved in This Decision: $1,378,794.

Earliest Charge Effective Date: March 1, 2007.

Estimated Charge Expiration Date: April 1, 2010.

Class of Air Carriers not Required To Collect PFC'S: Part 135 air Taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at MBS International Airport.

Brief Description of Projects Approved for Collection and Use:

Furnish and install regional jet bridge.

Reimbursement of PFC charges for application preparation.

Reimbursement of charges for audits of PFC program.

Land acquisition—Law property.

Security fingerprint machine procurement.

Aircraft rescue and firefighting vehicle procurement.

Snow removal equipment procurement.

Runway friction braking vehicle procurement.

Decision Date: November 24, 2003.

For Further Information Contact: Jason Watt, Detroit Airports District Office, (734) 229–2906.

Public Agency: Hattiesburg-Laurel Regional Airport Authority, Moselle, Mississippi.

Application Number: 03–04–C–00–PIB.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $79,487.

Earliest Charge Effective Date: April 1, 2004.

Estimated Charge Expiration Date: April 1, 2006.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Acquire air passenger boarding stairs.

Expand parking lot.

Expand commercial apron.

Rehabilitate airport beacon and apron lights.

Decision Date: December 3, 2003.

For Further Information Contact: Patrick D. Vaught, Jackson Airports District Office, (601) 664–9885.

Public Agency: Western Reserve Port Authority, Vienna, Ohio.

Application Number: 03–04–C–00–YNG.

Application Type: Impose and use a PFC.

PFC Level: $3.00

Total PFC Revenue Approved in This Decision: $36,888.

Charge Effective Date: Not applicable. This decision authorizes the use of excess revenue previously collected and does not authorize new collections of PFC revenue.

Estimated Charge Expiration Date: Not applicable.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

PFC program administration.

Runway safety area modifications and terminal sanitary sewer.

Decision Date: December 3, 2003.

For Further Information Contact: Jason K. Watt, Detroit Airports District Office (734) 229–2906.

Public Agency: City of Pocatello, Idaho.

Application Number: 03–04–C–00–PIH.

Application Type: Impose and use a PFC.

PFC Level: $4.50

Total PFC Revenue Approved in This Decision: $456,500.

Earliest Charge Effective Date: January 1, 2005.

Estimated Charge Expiration Date: March 1, 2008.

Class of Air Carriers not Required to Collect PFC's:

Non-scheduled air taxi/commerical operators, utilizing aircraft having a seating capacity of less than 20 passengers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Pocatello Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Renovation of taxiway A and connectors, parallel taxiway for runway 3/21, lighting system.

Pavement condition index survey update and wildlife hazard study.

Taxiway F, D, and B widening and hold apron for runway end 3.

Snow removal equipment procurement—plow.

Security system upgrade—identification card access.

Wildlife abatement fencing.

Construct new aircraft rescue and firefighting building.

Brief Description of Project Approved for Collection:

Construction of midfield taxiway E.

Brief Description of Withdrawn Project:

Purchase aircraft rescue and firefighting vehicle.

Determination: This project was withdrawn by the public agency on September 9, 2003.

Decision Date: December 19, 2003.

For Further Information Contact: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: Board of County Commissioners of Washington County, Hagerstown, Maryland.

Application Number: 04–03–C–00–HGR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $415,188.

Earliest Charge Effective Date: January 1, 2004.

Estimated Charge Expiration Date: December 1, 2007.

Class of Air Carriers not Required To Collect PFC's: Non-scheduled/on-determine air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanement at Hagerstown Regional Airport—Richard A. Hensen Field.

Brief Description of Project Approved for Collection and Use:

Terminal building modifications.

Decision Date: December 17, 2003.

For Further Information Contact: Arthur Winder, Washington Airports District Office, (703) 661–1363.

Public Agency: Blair County Airport Authority, Martinsburg, Pennsylvania.

Application Number: 03–05–C–00–AOO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $232,460.

Earliest Charge Effective Date: March 1, 2004.

Estimated Charge Expiration Date: November 1, 2013.

Classes of Air Carriers not Required To Collect PFC's:

(1) Part 135 charter operations; (2) unscheduled Part 121 charter operations.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined each the approved class accounts for less than 1 percent of the total annual enplanements at Altoona-Blair County Airport.

Brief Description of Projects Approved for Collection and Use:

Develop PFC program and PFC application.

Construct aircraft rescue and firefighting building.

Rehabilitate T-hangar taxilane and terminal apron.

Acquire snow removal equipment.

Security enhancements.

Acquire land for runway 2/20 primary surface, phases I and II.

Improve snow removal equipment building.

Improve runway 2/20 runway safety areas, phase I.

Expand south hangar apron, phase I.

Acquire aircraft rescue and firefighting gear, fire retardant clothing/self-contained breathing apparatus.

Brief Description of Project Approved for Collection: Extend runway 12/30, phases I and II.

Decision Date: December 23, 2003.

For Further Information Contact: Lori Ledebohm, Harrisburg Airports District Office, (717) 730–2835.

Public Agency: Tulsa Airports Improvement Trust, Tulsa, Oklahoma.

Application Number: 04–05–C–00–TUL.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $26,617,000.

Earliest Charge Effective Date: July 1, 2004.

Estimated Charge Expiration Date: April 1, 2011.

Class of Air Carriers not Required To Collect PFC's: Part 135 air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Tulsa International Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal building rehabilitation.

Acquire airport safety equipment.

Rehabilitate taxiways and taxilanes.

Rehabilitate runway 18L/36R lighting.

Brief Description of Project Partially Approved for Collection and Use: Extend runway 8/26, associated development, and land acquisition.

Determination: Partially approved. The FAA has reviewed the information provided in the application and supplemental information submitted by the public agency on November 6, 2003. Given the complexity of the land issues, the FAA has concluded that it does not

have sufficient information to determine the land acquisition eligibility in accordance with § 158.15(b) and did not approve the land acquisition portion of the project.

Decision Date: December 29, 2003.

For Further Information Contact: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Public Agency: Municipal Airport Authority, Fargo, North Dakota.

Application Number: 03–06–C–00–FAR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $12,469,848.

Earliest Charge Effective Date: July 1, 2004.

Estimated Charge Expiration Date: May 1, 2017.

Class of Air Carriers not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Hector International Airport.

Brief Description of Projects Approved for Collection and Use:

PFC application.

Annual audits.

Administration of PFC.

Snow removal equipment front end loaders.

Continuous friction measuring equipment.

Runway sweeper.

Remove power line obstruction.

Security fence modifications.

Storm sewer modifications/ rehabilitation.

Passenger terminal rehabilitation.

Rehabilitate rotating beacon lower platform.

Electrical vault modification.

Wildlife hazard assessment.

Land acquisition.

General aviation apron.

Taxiway storm sewer.

Air carrier apron rehabilitation.

Runway 8/26 extension.

Access control system upgrade.

Reconstruct taxiway B and G2, relocate runway 31 threshold and construct G3, remove and replace security fencing along taxiway A, and preliminary engineering for the reconstruction of runway 17/35.

Reconstruction of runway 17/35.

Decision Date: December 29, 2003.

For Further Information Contact: Thomas T. Schauer, Bismarck Airports District Office, (701) 323–7380.

Amendments to PFC Approvals

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
*01–08–C–01–CLE Cleveland, OH	11/08/03	$82,106,000	$82,106,000	12/01/07	11/01/07
02–07–C–01–PBI West Palm Beach, FL	11/25/03	6,000,000	17,000,000	01/01/06	02/01/07
00–07–C–02–MCO Orlando, FL	11/26/03	187,429,617	189,271,854	08/01/08	09/01/08
02–09–C–02–MCO Orlando, FL	11/26/03	222,974,900	225,137,998	09/01/17	11/01/17
01–03–C–02–LFT Lafayette, LA	12/03/03	2,323,000	2,668,000	05/01/04	07/01/04
94–01–C–03–ATW Appleton, WI	12/12/03	950,551	689,967	09/01/00	02/01/96
98–03–C–02–ATW Appleton, WI	12/12/03	3,159,000	3,130,818	04/01/03	02/01/03
00–03–C–02–AOO Altoona, PA	12/23/03	223,570	135,270	10/01/04	08/01/02
03–04–C–01–EAT Wenatchee, WA	12/30/03	123,500	142,025	06/01/04	06/01/04

Note: The amendment denoted by an asterisk (*) includes a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Cleveland, OH, this change is effective on February 1, 2004.

Issued in Washington, DC. on February 27, 2004.

JoAnn Horne,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 04–5038 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Queens County, NY

AGENCY: Federal Highway Administration (FHWA), United States Department of Transportation (USDOT).

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for improvements to a section of the Long Island Expressway (I–495), approximately 1,800 meters (5900 ft) in length, in the vicinity of its interchanges with the Van Wyck Expressway (I–678) and Grand Central Parkway (Route 907–M) in Queens County, New York. The EIS will study and document proposed roadway and bridge improvements, including the possible rehabilitation or replacement of six vehicular bridges and four pedestrian bridges. These changes are being considered to ensure structural integrity and extend the service life of existing bridges, and to improve traffic operations, and safety.

FOR FURTHER INFORMATION CONTACT: Douglas Currey, Regional Director, New York State Department of Transportation, Region 11, Hunters Point Plaza, 47–40 21st Street, Long Island City, New York 11101 Telephone: (718) 482–4526, or Robert Arnold, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, Room 719, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone (518) 431–4125.

SUPPLEMENTARY INFORMATION: Pursuant to Title 23, Code of Federal Regulations, Part 771, Environmental Impact and Related Procedures, the FHWA, in cooperation with the New York State Department of Transportation (NYSDOT), will prepare an EIS in accordance with the National Environmental Policy Act (NEPA), on alternatives and modifications for the Long Island Expressway (LIE), the Van Wyck Expressway (VWE), and the Grand Central Parkway (GCP), in the area generally bounded by Main Street to the east, 108th Street to the west, and the connecting ramps and collector-distributor roads of the LIE interchange with the VWE and the GCP to the north and south.

The EIS will assess the potential impacts and costs associated with a range of build alternatives. In addition, it will consider a No Build Alternative that will serve as the baseline against which the other alternatives will be measured. The No Build Alternative includes only continued maintenance of the involved structures and roadways. It would not change their physical

configuration or correct design deficiencies.

At a minimum, the current project will examine three build alternatives that were identified in the Expanded Project Proposal (EOO). Build Alternative 1 would correct deficiencies on the existing bridges in the study area that would provide small changes to the physical configuration of the roadway. The alternative would not mitigate the problems related to traffic operations and safety. Build Alternatives 2 and 3 propose significant roadway modifications, including new and/or relocated ramp connections at the LIE–GCP interchange, improvements at the intersection of College Point Boulevard and the LIE service roads, and rehabilitation of existing bridges. Both Alternatives 2 and 3 will address the traffic operations and safety problems.

To ensure the full range of issues related to the proposed action are identified and addressed, a series of scoping activities will be conducted. specific activities will include coordination with involved agencies; briefings and elected officials, community boards, and community groups. A Public Scoping Meeting is scheduled for Wednesday, May 5, 2004, at 6:30 p.m. at the Forest Hills High School Auditorium, 67–01 110 Street, Forest Hills, NY 11375. Information about the Scoping Meeting, including location, and agenda, will be provided through media releases and another notifications to interested groups. The meeting will provide the public with information about the project and an opportunity to assist in formulating the scope of the environmental studies to be conducted in the DEIS. Comments are invited from all interested parties. Oral and written comments on the project and the scope of the DEIS will be accepted at the meeting; comments can also be submited in writing by mail or e-mail up to 30 days after the date of the scoping meeting. All written comments received by that date will be included in the official record of the meeting. Comments or questions concerning this proposed action and the DEIS should be directed to NYSDOT or FHWA at the addresses above.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, local agencies and to private organizations and citizens who have previously expressed interest in this proposal. A series of public information meetings will be held in Queens County, New York between July 2004 and April 2006. In addition, a Public Hearing will be held after publication of the DEIS to obtain comments on the document. Public notice will be given of the time and place of the DEIS Public Housing.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities, apply to this program.)

Authority: 23 U.S.C.. 315; 23 CFR 771.123.

Robert Arnold,

Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. 04–5622 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21005]

Coach USA, Inc.—Intra-Corporate Family Transaction Exemption

Coach USA, Inc. (Coach), a noncarrier, has filed a verified notice of exemption under the Board's class exemption procedures at 49 CFR 1182.9. Under the proposed transaction, Coach will transfer equal shares of Coach USA Administration, Inc. (Coach Administration), a noncarrier subsidiary of Coach that is incorporated in Nevada, to two United Kingdom (UK) entities, SCUSI Limited and SCOTO Limited, noncarriers that currently are general partners in Stagecoach Nevada, Coach's current immediate parent company. Subsequently, Stagecoach Nevada will transfer its shares in Coach to Coach Administration. Thereafter, SCOTO Limited will transfer all of its Coach Administration shares to SCUSI Limited. As a result of the transaction, the structure of Coach will be simplified, leaving SCUSI Limited as the owner of Coach Administration which will be the sole immediate owner of Coach.

The transaction is scheduled to be consummated on March 10, 2004.[1]

The purpose of the transaction is to adjust the current debt levels of Coach to a more sustainable level and to concentrate the holdings of the shares of Coach into a single noncarrier UK entity, thereby creating a simpler single direct holding in the United States.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1182.9. Coach states that the transaction will not result in adverse changes to the subsidiary motor companies' service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family. Coach also states that, to consummate this transaction, it will enter into (1) a Stock Purchase Agreement to sell its shares in Coach Administration to SCUSI Limited and SCOTO Limited, and (2) an Assignment and Assumption Agreement and First Amendment to Loan Facility, in which Coach, as the lender, allows the change in the identity of the borrower under the Loan Facility from Stagecoach Nevada to Coach Administration. Coach further states that the motor passenger carriers involved in this transaction will remain unchanged by these transactions and that these transactions will have no effect upon Coach employees or the employees of the motor passenger carriers owned by Coach.

If the verified notice contains false or misleading information, the Board shall summarily revoke the exemption and require divestiture. Petitions to revoke the exemption under 49 U.S.C. 13541(d) may be filed at any time. *See* 49 CFR 1182.9(c).

An original and 10 copies of all pleadings, referring to STB Docket No. MC–F–21005, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: March 4, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–5381 Filed 3–11–04; 8:45 am]

BILLING CODE 4915–01–P

[1] In its verified notice, Coach initially proposed consummation on February 19, 2004, the effective date of the exemption (7 days after the exemption was filed). By letter filed on March 2, 2004, Coach states that the closing date for the transaction was rescheduled to March 10, 2004.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34478]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant temporary overhead trackage

rights to Union Pacific Railroad Company (UP) over a BNSF rail line between BNSF milepost 5.7 near Villard Junction, WA, and BNSF milepost 11.98 near Lakeside Junction, WA, a distance of approximately 139.3 miles.[1]

The transaction was scheduled to be consummated on March 1, 2004, and the authorization is expected to expire on or about March 29, 2004. The purpose of the temporary rights is to facilitate maintenance work on UP lines.

As a condition to this exemption, any employees affected by the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.–Trackage Rights–BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.–Lease and Operate*, 360 I.C.C. 653 (1980), *aff'd sub nom. Railway Labor Executives' Ass'n* v. *United States*, 675 F.2d 1248 (D.C. Cir. 1982).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34478, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert T. Opal, 1416 Dodge St., Room 830, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: March 4, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–5380 Filed 3–11–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34468]

Atlantic Western Transportation, Inc.—Continuance in Control Exemption—Georgia Midland Railroad, Inc.

Atlantic Western Transportation, Inc. (AWT), a noncarrier, has filed an amended notice of exemption to continue in control of Georgia Midland Railroad, Inc. (GMR), upon GMR's becoming a rail carrier.

The transaction was expected to be consummated on or after February 19, 2004 (7 days after the amended notice was filed).

This transaction is related to the concurrently filed amended notices of exemption in: (1) STB Finance Docket No. 34466, *Georgia Midland Railroad, Inc.—Acquisition and Operation Exemption—Ogeechee Railway Company*, wherein Ogeechee Railway Company (ORC) seeks to sublease to GMR three rail line segments that do not connect with each other totaling 78.06 miles; and (2) STB Finance Docket No. 34467, *Heart of Georgia Railroad, Inc.—Acquisition and Operation—Rail Line of Ogeechee Railway Company*, wherein ORC seeks to sublease a 42.4-mile rail line between Midville and Vidalia, GA, to Heart of Georgia Railroad, Inc. (HOG). AWT also currently controls HOG, a Class III rail carrier, which operates a rail line between Vidalia, GA, and Mahrt, AL, a distance of approximately 177.76 miles.

AWT states that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34468, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: March 4, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–5366 Filed 3–11–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34466]

Georgia Midland Railroad, Inc.—Acquisition and Operation Exemption—Ogeechee Railway Company

Georgia Midland Railroad, Inc. (GMR), a noncarrier, has filed an amended notice of exemption to acquire by sublease from Ogeechee Railway Company (ORC) and operate the following lines: (1) The Perry line between (a) milepost 90.44–FV at or near Roberta, GA, and milepost 105.30–FV at or near Fort Valley, GA, a distance of approximately 14.86 miles; and (b) between milepost N219.70 at or near Fort Valley, GA, and milepost 232.60 at or near Perry, GA, a distance of approximately 12.9 miles; (2) the Metter line between milepost W–57.50 at or near Dover, GA, and milepost W–86.70 at or near Metter, GA, a distance of approximately 29.2 miles; and (3) the Sylvania line between milepost SA–36.4 at or near Ardmore, GA, and milepost SA–57.5 at or near Sylvania, GA, a distance of approximately 21.1 miles. ORC leases these lines from the State of Georgia Department of Transportation (GaDOT). ORC and GMR state that they have reached an agreement regarding this transaction and have taken steps to obtain GaDOT's consent to the proposed sublease and operation.

The transaction was scheduled to be consummated on or after February 19, 2004 (7 days after the amended notice was filed).

This transaction is related to two concurrently filed amended verified notices of exemption in: (1) STB Finance Docket No. 34467, *Heart of Georgia Railroad, Inc.—Acquisition and Operation Exemption—Rail Line of Ogeechee Railway Company*, wherein ORC seeks to sublease to Heart of Georgia Railroad, Inc. (HOG) a 42.4-mile rail line between Midville and Vidalia, GA; and (2) STB Finance Docket No.

[1] The trackage rights involve BNSF subdivisions with non-contiguous mileposts. Therefore, total mileage does not correspond to the milepost designations of the endpoints.

34468, *Atlantic Western Transportation, Inc.—Continuance in Control Exemption—Georgia Midland Railroad, Inc.*, wherein Atlantic Western Transportation, Inc. (AWT), a noncarrier, will continue in control of GMR, upon GMR's becoming a rail carrier. AWT also currently controls HOG.

GMR certifies that its projected annual revenues will not exceed those that would qualify it as a Class III carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34466, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 189, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: March 4, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–5364 Filed 3–11–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34467]

Heart of Georgia Railroad, Inc.—Acquisition and Operation Exemption—Ogeechee Railway Company

Heart of Georgia Railroad, Inc. (HOG), a Class III rail carrier, has filed an amended notice of exemption from 49 U.S.C. 10902 to acquire by sublease from Ogeechee Railway Company (ORC) and operate a rail line between milepost 194.64 at or near Midville, GA and milepost 152.2 near Vidalia, GA, a distance of approximately 42.4 miles. ORC leases that rail line from the State of Georgia, Department of Transportation (GaDOT). ORC and HOG state that they have reached an agreement regarding this transaction and have taken steps to obtain GaDOT's consent to the proposed sublease and operation.

The transaction was scheduled to be consummated on or after February 19, 2004 (7 days after the amended notice was filed).

This transaction is related to two concurrently filed amended verified notices of exemption in: (1) STB Finance Docket No. 34466, *Georgia Midland Railroad, Inc.—Acquisition and Operation Exemption—Ogeechee Railway Company*, wherein Georgia Midland Railroad, Inc. (GMR) will acquire and operate three rail line segments that do not connect with each other totaling 78.06 miles; and (2) STB Finance Docket No. 34468, *Atlantic Western Transportation, Inc.—Continuance in Control Exemption—Georgia Midland Railroad, Inc.*, wherein Atlantic Western Transportation, Inc. (AWT) will continue in control of GMR, upon GMR's becoming a rail carrier. AWT, a noncarrier, also controls HOG.

HOG certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34467, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: March 4, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–5365 Filed 3–11–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 4, 2004.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 12, 2004 to be assured of consideration.

Departmental Offices/Community Development Financial Institutions (CDFI) Fund

OMB Number: New.

Form Number: CDFI 0007.

Type of Review: New collection.

Title: Annual Survey: Institution-Level Report; Transaction-Level Report; IRS Compliance Questions.

Description: The proposed data collection will be used to collect compliance and performance data from certified CDFIs and CDEs and from NACD awardees. This data collection replaces the Annual Survey and parts of the Annual Report (OMB# 1559–0006).

Respondents: Business or other for-profit, Not-for-profit institution.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Respondent: 13 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 17,266 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 11309, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 04–5583 Filed 3–11–04; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2004–19

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2004–19, Probable or Prospective Reserves Safe Harbor.

DATES: Written comments should be received on or before May 11, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Probable or Prospective Reserves Safe Harbor.

OMB Number: 1545–1861.

Revenue Procedure Number: Revenue Procedure 2004–19.

Abstract: Revenue Procedure 2004–19 requires a taxpayer to file an election statement with the Service if the taxpayer wants to use the safe harbor to estimate the taxpayers' oil and gas properties' probable or prospective reserves for purposes of computing cost depletion under § 611 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Annual Average Time Per Respondent: 30 minutes.

Estimated Total Annual Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 8, 2004.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–5668 Filed 3–11–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Chiropractic Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Chiropractic Advisory Committee will meet Tuesday, March 30, 2004, from 8:15 a.m. until 5 p.m. and Wednesday, March 31, 2004, from 8 a.m. until 4 p.m., in Room 819, at 811 Vermont Avenue NW., Washington, DC 20420. The meeting is open to the public.

The purpose of the Committee is to provide direct assistance and advice to the Secretary of Veterans Affairs in the development and implementation of the chiropractic health program. Matters on which the Committee shall assist and advise the Secretary include protocols govening referrals to chiropractors and direct access to chiropractic care, scope of practice of chiropractic practitioners, definitions of services to be provided and such other matters as the Secretary determines to be appropriate.

On March 30, the Committee will receive an update on the status of the recommendations to the Secretary; an update on the chiropractic occupational study and qualification standard; a briefing on the VHA performance measurement process; and continue discussion of educational recommendations. On March 31, the Committee will complete development of educational recommendations, if additional time is needed, and begin discussion of quality/program evaluation.

Any member of the public wishing to attend the meeting is requested to contact Ms. Sara McVicker, RN, MN, Committee Manager, at (202) 273–8558, not later than 5 p.m. Eastern time on Wednesday, March 23, 2004, in order to facilitate entry to the building. Oral comments from the public will not be accepted at the meeting. It is preferred that any comments be transmitted electronically to *sara.mcvicker@mail.va.gov* or mailed to: Chiropractic Advisory Committee, Medical Surgical Services SHG (111), U.S. Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Items mailed via United States Postal Service require 7–10 days for delivery due to delays resulting from security measures.

Dated: March 2, 204.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 04–5623 Filed 3–11–04; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 69, No. 49
Friday, March 12, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program ("NSRP")

Correction

In notice document 04–4840 appearing on page 10263 in the issue of Thursday, March 4, 2004, make the following correction:

On page 10263, in the second column, in the first paragraph, in the second line, "February 17, 2994", should read, "February 17, 2004".

[FR Doc. C4–4840 Filed 3–11–04; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16180; Airspace Docket No. 03–AEA–14]

Amendment of Class E Airspace; New York, NY

Correction

In rule document 03–31026 beginning on page 70137 in the issue of December 17, 2003, make the following correction:

§71.1 [Corrected]

On page 70138, in §71.1, in the first column, under the heading "**AEA NY E5 New York, NY (Revised)**" in the 18th line, "Mewburgh" should read "Newburgh".

[FR Doc. C3–31026 Filed 3–11–04; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Friday,
March 12, 2004

Part II

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone; Refrigerant Recycling; Substitute Refrigerants; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7625–6]

RIN 2060–AF37

Protection of Stratospheric Ozone; Refrigerant Recycling; Substitute Refrigerants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the rule on refrigerant recycling, promulgated under section 608 of the Clean Air Act (CAA or Act), to clarify how the requirements of section 608 apply to refrigerants that are used as substitutes for chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants.

This rule explicates the self-effectuating statutory prohibition on venting substitute refrigerants to the atmosphere that became effective on November 15, 1995. The rule also exempts certain substitute refrigerants from the venting prohibition on the basis of current evidence that their release does not pose a threat to the environment.

In addition, EPA is amending the current refrigerant recovery and recycling requirements for chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants to accommodate the proliferation of new refrigerants on the market, and to clarify that the venting prohibition applies to all refrigerants for which EPA has not made a determination that their release "does not pose a threat to the environment," namely hydrofluorocarbon (HFC) and perfluorocarbon (PFC) refrigerants. With the exception of the venting prohibition, this rule will not further regulate the use or sale of substitute refrigerants that do not contribute to the depletion of the stratospheric ozone layer, such as HFC and perfluorocarbon PFC refrigerants. In addition, today's action will not address leak repair requirements for appliances containing substitutes for ozone-depleting substance (ODS) refrigerants nor will it address certification requirements for refrigerant recovery or recycling equipment intended for use with substitute refrigerants.

EFFECTIVE DATE: May 11, 2004.

ADDRESSES: Materials relevant to the rulemaking are contained in Air Docket No. A–92–01 located at U.S. Environmental Protection Agency, 1301 Constitution Ave., NW., Washington, DC 20460. The Docket may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Information concerning this rulemaking should be forwarded to Julius Banks; U.S. Environmental Protection Agency, Global Programs Division-Stratospheric Program Implementation Branch, Mail Code 6205–J, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The Stratospheric Ozone Information Hotline (800–296–1996) and the Ozone Web page *www.epa.gov/ozone* can also be contacted for further information.

I. Regulated Entities

Entities potentially regulated by this action include those that manufacture, own, maintain, service, repair, or dispose of all types of air-conditioning and refrigeration appliances, including motor vehicle air-conditioners; those that sell or reclaim refrigerants; those that certify technicians; and manufacturers and certifiers of refrigerant recycling and recovery equipment. This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your company is regulated by this action, you should carefully examine the applicability criteria contained in section 608 of the CAA Amendments of 1990. The applicability criteria are discussed below and in regulations published on December 30, 1993 (58 FR 69638). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Overview

Effective November 15, 1995, section 608(c)(2) of the Act prohibits the knowing venting, release, or disposal of any substitute for CFC and HCFC refrigerants by any person maintaining, servicing, repairing, or disposing of air-conditioning and refrigeration equipment. This prohibition applies unless EPA determines that such venting, releasing, or disposing does not pose a threat to the environment.

Today's final rule clarifies how the venting prohibition of section 608(c)(2) applies to substitute refrigerants for which EPA is not determining that their release does not pose a threat to the environment, namely, HFC and PFC refrigerants. In addition to establishing that the venting prohibition will remain in effect for HFC and PFC substitute refrigerants, this rule will clarify that EPA regulations affecting the handling and sales of ozone-depleting refrigerants are applicable to substitute refrigerants, primarily HFC refrigerant blends, that contain an ozone-depleting substance (ODS). Today's rule does not extend the refrigerant sales restriction to pure HFC and PFC refrigerants. This rule does exempt from the venting prohibition certain refrigerant substitutes for which EPA has determined that their release does not pose a threat to the environment.

A. Section 608 of the Clean Air Act

Section 608 of the CAA requires EPA to establish a comprehensive program to limit emissions of ozone-depleting refrigerants. Section 608 also prohibits the release or disposal of ozone-depleting refrigerants and their substitutes during the maintenance, service, repair, or disposal of air-conditioning and refrigeration appliances.

Section 608 is divided into three subsections. In brief, section 608(a) requires EPA to develop regulations and standards to reduce the use and emission of class I substances (*e.g.*, CFCs, halons, carbon tetrachloride, and methyl chloroform) and class II substances (*e.g.*, HCFCs) to the lowest achievable level, and to maximize the recapture and recycling of such substances. Section 608(b) requires that the regulations promulgated pursuant to subsection (a) contain standards and requirements concerning the safe disposal of class I and class II substances. Finally, section 608(c) establishes a self-effectuating prohibition on the venting into the environment of class I or class II substances and their substitutes during servicing and disposal of air-conditioning or refrigeration equipment.

Section 608(a) provides EPA authority to promulgate many of the requirements in today's rule. Section 608(a) requires EPA to promulgate regulations regarding use and disposal of class I and II substances that "reduce the use and emission of such substances to the lowest achievable level" and "maximize the recapture and recycling of such substances." Section 608(a) further provides that "such regulations may include requirements to use alternative substances (including substances which are not class I or class II substances) * * * or to promote the use of safe alternatives pursuant to section 612 or any combination of the foregoing." EPA's authority to promulgate regulations regarding use of class I and II substances (including requirements to use alternatives) is sufficiently broad to include requirements on how to use alternatives, where regulations are required to reduce emissions and maximize recycling of class I and II ODSs.

Section 608(c) provides EPA authority to promulgate regulations to interpret, implement and enforce the venting prohibition. Subsection 608(c) provides in paragraph (1) that, effective July 1, 1992, it is unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance (or industrial process refrigeration) in a manner which permits such substance to enter the environment.

The statute exempts from this self-effectuating prohibition "*[d]e minimis* releases associated with good faith attempts to recapture and recycle or safely dispose" of a substance. EPA considers releases to meet the criteria for exempted *de minimis* releases when they occur while the recycling and recovery requirements of the section 608 and 609 regulations are followed (§ 82.154(a)).

Section 608(c)(2) extends the prohibition on venting to substances that are substitutes for class I and class II refrigerants, effective November 15, 1995, unless the Administrator determines that such venting or release "does not pose a threat to the environment." While section 608(c) is self-effectuating, EPA regulations are necessary to define "*[d]e minimis* releases associated with good faith attempts to recapture and recycle or safely dispose" of such substances, and to effectively implement and enforce the venting prohibition.

EPA is today promulgating regulations to implement and clarify the requirements of section 608(c)(2), which extends the prohibition on venting to substitutes for CFC and HCFC refrigerants. These regulations are also vital to the Agency's efforts to continue to carry out its mandate under section 608(a) to minimize emissions of ozone-depleting substances.

B. Factors Considered in the Development of this Rule

In developing this rulemaking, EPA has considered a number of factors in determining whether the release of a substitute refrigerant poses a threat to the environment. First, EPA has considered which refrigerants should be classified as "substitute" refrigerants. EPA is adopting a definition of substitute that is similar to that adopted by EPA in its Significant New Alternatives Policy (SNAP) Program, except the definition omits the proviso of the SNAP definition that a substitute be "*intended* for use as a replacement for a class I or class II ozone-depleting substance."

As the second factor in this remaking, EPA has made a determination regarding whether or not the release of a substitute refrigerant during the maintenance, service, repair or disposal of an appliance poses a threat to the environment. This determination consists of two findings. First, EPA determined whether the release of a substitute refrigerant could pose a threat to the environment due to the toxicity or other inherent characteristic of the refrigerant. Second, EPA determined whether and to what extent such releases or disposal actually takes place during the servicing and disposal of appliances, and to what extent these releases are controlled by other authorities or regulations. The release of many substitute refrigerants is limited and/or controlled by other entities, such as Occupational Safety and Health Administration (OSHA) regulations or EPA regulations under other authorities. To the extent that releases during the maintenance, service, repair, or disposal of appliances are adequately controlled by other authorities, EPA defers to these authorities rather than set up a second duplicative regulatory regime.

As the third factor in this rulemaking, EPA has considered the availability of technology to control releases, the environmental benefits of controlling releases, and the costs of controlling releases for each class of substitutes.

EPA has identified five classes of substitute refrigerants in the sectors covered under SNAP: HFCs, PFCs, hydrocarbons, chemically active common gases (including ammonia and chlorine), and inert atmospheric constituents (including carbon dioxide (CO_2) and water). EPA has divided substitutes into these classes on the basis of the varying environmental impacts of each class and the varying regulatory structures already in place for each class.

C. Public Participation

In developing this rule, EPA has considered comments received in response to the Notice of Proposed Rulemaking (NPRM) as well as those comments stated during meetings with industry, government, and environmental representatives. During meetings with industry and government representatives, EPA has gained a better understanding of current industry practices and how existing regulatory authorities serve to control emissions of substitute refrigerants. All data and information received from industry and government representatives that EPA has relied on in developing this final rule was placed in the docket and made available to the public. EPA refers readers to Docket No. A–92–01, Categories VI–B8, VIII–H, VIII–H1, and VIII–H6 for all factual materials. In addition, EPA has consulted the air-conditioning and refrigeration industry's primary standards-setting organizations, the Air-Conditioning and Refrigeration Institute (ARI) and the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, Inc. (ASHRAE), in developing this rule. As required by statute, EPA has, where appropriate, incorporated in this rule voluntary consensus standards and guidelines developed by these organizations.

D. Notice of Proposed Rulemaking (NPRM) Regarding Recycling of Substitute Refrigerants

On June 11, 1998, EPA published an NPRM (63 FR 32044) outlining requirements for substitute refrigerants. In that notice, EPA proposed regulations under section 608 of the Act to amend 40 CFR part 82 by proposing regulations nearly identical to those dealing with the use and handling of class I and class II ODS refrigerants. In the NPRM, EPA proposed to extend the regulatory framework for CFC and HCFC refrigerants to HFC and PFC refrigerants, making appropriate adjustments for the varying physical properties and environmental impacts of these refrigerants. The following requirements were included in the NPRM:

- Appliances containing HFC or PFC refrigerants would have to be evacuated to established levels;
- Refrigerant recycling and recovery equipment used with HFCs or PFCs would have to be certified;
- Technicians servicing, maintaining, or repairing appliances containing HFC or PFC refrigerants would have to be certified;
- Sales of HFC and PFC refrigerants would be restricted to certified technicians;
- Used HFC and PFC refrigerants sold to a new owner would have to be reclaimed by an EPA-certified refrigerant reclaimer and tested to verify that they meet industry refrigerant standards, including purity standards;
- Refrigerant reclaimers who reclaim HFC or PFC refrigerants would have to be certified;
- Owners of HFC and PFC appliances with refrigerant charges greater than 50 lbs. would have to repair leaks when the applicable leak repair trigger rate was exceeded over a 12-month period;
- Final disposers of small appliances and motor vehicle air conditioners (MVACs) containing HFCs or PFCs would have to ensure that refrigerant was recovered from this equipment before it was disposed of; and
- Manufacturers of HFC and PFC appliances would have to provide a servicing aperture or a "process stub" on their equipment in order to facilitate recovery of the refrigerant.

The NPRM also proposed clarifications to the requirements of section 608 as they would apply to substitutes for CFC and HCFC refrigerants, and proposed to exempt certain substitute refrigerants from the statutory venting prohibition on the basis of evidence that their releases do not pose a threat to the environment. In addition, EPA proposed to amend the requirements for CFC and HCFC refrigerants to accommodate the proliferation of new refrigerants on the market and to strengthen and clarify the leak repair requirements.

The NPRM asked for public comment on the Agency's proposed findings and on the rationale behind them. The Agency received 167 public comment letters (comments/commenters) in response to the NPRM. In general, most commenters recognized the need for mandatory refrigerant recovery in order to help protect the ozone layer and to provide a source of refrigerant to service existing capital equipment after the phaseout of CFC and HCFC refrigerant production is complete. The majority of commenters believed that the proposed amendments were necessary to clarify and improve regulations, but many expressed concerns over the regulation of refrigerants that do not deplete the ozone layer. EPA received mixed comments concerning the proposed HFC refrigerant sales restriction. Representatives of the MVAC service sector were in favor of the restriction, while representatives of the after market automotive parts sector opposed any refrigerant sales restriction.

Today's action addresses the public comments received in response to the proposed rule as they relate to the components of the NPRM that EPA is finalizing in today's action. Comments concerning leak repair requirements and certification of refrigerant recovery/recycling equipment will be addressed in separate rulemakings. Relevant comments that are not directly addressed in today's action are addressed in the accompanying "Response to Comments" document, which is available in Air Docket No. A–92–01.

III. Scope of Statutory and Regulatory Requirements

A. EPA's Statutory Authority

Pursuant to section 608(a) of the Clean Air Act, EPA is broadly authorized to promulgate regulations establishing standards and requirements regarding the use and disposal of class I and class II substances during service, repair, or disposal of appliances and industrial process refrigeration (42 U.S.C. 7671g(a)). Section 608(b) authorizes EPA to promulgate regulations establishing standards and requirements assuring the safe disposal of class I and class II substances (42 U.S.C. 7671g(b)). Section 608(c)(1) provides that it is unlawful for any person, while in the course of maintaining, servicing, repairing, or disposing of an appliance or of industrial process refrigeration, to knowingly vent, release, or dispose of any class I or class II substance used as a refrigerant in a manner that permits such substance to enter the environment (42 U.S.C. 7671g(c)(1)). Section 608(c)(2) provides that the section 608(c)(1) knowing venting, release, or disposal prohibition also applies to the venting, release, or disposal of any substitute substance for a class I or class II substance by any person maintaining, servicing, repairing, or disposing of any appliance or industrial process refrigeration that contains and uses such substitute substance as a refrigerant—unless EPA determines that venting, releasing, or disposing of such substitute substance does not pose a threat to the environment (42 U.S.C. 7671g(c)(2)).

With today's action, EPA is amending the current refrigerant recovery and recycling requirements for chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants to accommodate the proliferation of new refrigerants on the market, and to clarify that the Section 608(c) venting prohibition applies to all refrigerants consisting in whole or in part of a class I or class II ozone-depleting substance (ODS). This rule also explicates the self-effectuating statutory prohibition on venting substitute refrigerants to the atmosphere that became effective on November 15, 1995. In addition, the rule exempts certain substitute refrigerants from the venting prohibition on the basis of current evidence that their release does not pose a threat to the environment.

Public comments questioned the need for regulations for a self-effectuating venting prohibition. Section 608(c)(2) establishes a self-effectuating prohibition on venting of any refrigerants that are substitutes for CFCs and HCFCs. Thus, venting of all substitute refrigerants, including HFC and PFC refrigerants (and blends thereof) is prohibited under section 608(c), with the exception of *de minimis* releases associated with good faith attempts to recapture and recycle. The *de minimis* releases exception, however, is not self-effectuating, nor is it self-explanatory.

EPA believes that regulatory clarification is necessary to define such "[*d*]*e minimis* releases" and "good faith attempts to recapture and recycle or safely dispose of any such substance" and safely dispose of appliances to effectively implement and enforce the venting prohibition. Section 608(c)(1) in conjunction with 608(c)(2) of the Act allow for an exemption for *de minimis* releases associated with good faith attempts to recapture and recycle or safely dispose of substitutes for class I and class II ODSs used as refrigerants. A regulation reflecting the statutory requirement for recovery of substitute refrigerants is an essential part of a regulatory framework within which *de minimis* releases and good faith attempts to recapture and recycle or safely dispose of substitute refrigerants can be defined.

B. Determination of Whether Release Poses a Threat to the Environment

Section 608(c)(2) extends the prohibition on venting to substances that are substitutes for class I and class II refrigerants, effective November 15, 1995, unless the Administrator determines that such venting or release does not pose a threat to the environment. In determining whether the release of a substitute refrigerant during the maintenance, servicing, repair, or disposal of appliances poses a threat to the environment, EPA has examined the potential effects of the refrigerant from the moment of release to its breakdown in the environment, considering possible impacts on workers, building occupants, and the environment. These effects vary among the different classes of refrigerants.

EPA has also examined the extent to which the release of a substitute refrigerant is already controlled by other authorities (such as state and local regulations, building codes, and other Federal regulations). In some cases, such authorities tightly limit the quantity of the substitute emitted or disposed; in others, they ensure that the substitute is disposed of in a way that will limit its impact on human health and the environment. In other cases, existing authorities address some threats (*e.g.*, occupational exposures), but not others (*e.g.*, long-term environmental impacts).

The discussion that follows details the potential environmental impacts of and existing controls on each class of refrigerant addressed in today's action.

1. HFC and PFC Refrigerants

In the NPRM, EPA proposed not to find that the release of HFC and PFC refrigerants does not pose a threat to the environment. HFC and PFC refrigerants have been classified as A1 refrigerants under American Society of Heating Refrigeration and Air-conditioning Engineers (ASHRAE) Standard 34,[1] indicating that they have low toxicity and no ability to propagate flame under the test conditions of the Standard. The exception is HFC–152a, which has been classified as an A2 refrigerant. This indicates that HFC 152a may propagate flame under the test conditions, but only at relatively high concentrations and with relatively low heat of combustion. However, like CFC and HCFC refrigerants, HFCs can have central nervous system depressant and cardio-toxic effects at high concentrations (several thousand parts-per-million (ppm)), and can displace oxygen at very high concentrations.

Moreover, once released into the atmosphere, HFCs and PFCs have the ability to trap heat that would otherwise be radiated from the Earth back to space. This ability, along with the relatively long atmospheric lifetime of these gases (particularly the PFCs), gives both HFCs and PFCs relatively high global warming potentials (GWPs). The 100-year GWPs of HFCs under consideration for use as refrigerants range from 140 (for HFC–152a) to 11,700 (for HFC–23), and the GWPs of PFCs under consideration for use as refrigerants range from 8,700 (for perfluorocyclobutane) to 9,200 (for perfluoroethane). HFC–134a, the most common individual HFC used in air-conditioning and refrigeration equipment, has a GWP of 1,300. Thus, the global warming impact of releasing a kilogram of an HFC or PFC ranges from 140 to 11,700 times the impact of releasing a kilogram of CO_2[2] (factoring in the 35% uncertainty associated with individual GWPs, this range becomes 90 to 15,800.) Therefore, EPA is not

[1] ASHRAE 34, "Number Designatiojn and Safety Classification of Refrigerants," establishes a uniform system of assigning the proper reference number classification to refrigerants, and includes safety classifications based on toxicity and flammability data.

[2] The CFCs and HCFCs being replaced by the HFCs are also greenhouse gases, though their direct warming effect is counteracted somewhat by the indirect cooling effect caused by their destruction of stratospheric ozone, which is itself a greenhouse gas.

determining that HFC and PFC substitute refrigerants do not pose a threat to the environment.

Under SNAP, HFC refrigerants (either pure or in blends) have been approved for use in almost every major air-conditioning and refrigeration end-use, including household refrigerators, motor vehicle air conditioners, retail food refrigeration, comfort cooling chillers, industrial process refrigeration, and refrigerated transport. HFC–134a in particular has claimed a large share of the market for non-ozone-depleting substitutes in these applications. Given this range of applications, HFCs have the potential to come into contact with consumers, workers, the general population, and the environment.

Under SNAP, EPA has approved PFCs for use in relatively few end-uses because of their large GWPs and long atmospheric lifetimes. These end-uses include uranium isotope separation, for which no other substitute refrigerant has been found, and some heat-transfer applications. In these applications, PFCs may come into contact with workers, the general population, and the environment.

Analyses performed for both this rule and the SNAP rule (59 FR 13049) indicate that existing regulatory requirements and industry practices are likely to keep the exposure of consumers, workers, and the general population to HFCs and PFCs below levels of concern (although recycling requirements would reduce still further the probability of significant exposure).[3] However, these requirements and practices do not address releases of HFCs or PFCs to the wider environment. For example, ASHRAE Standard 15[4] requirements, for equipment with large charge sizes, are likely to limit the exposure of building occupants and workers to HFC and PFC refrigerants, but will not necessarily reduce releases to the atmosphere. In accordance with ASHRAE 15, equipment containing large charges of HFCs or PFCs (or HCFCs or CFCs) must be located in a machinery room that meets certain requirements for tight fitting or outward-opening doors, refrigerant detectors that activate alarms when refrigerant levels rise above recommended long-term exposure levels, and mechanical ventilation that discharges released refrigerant to the outdoors. However, ASHRAE 15 does not include requirements for refrigerant recovery or recycling.[5] In general, ASHRAE 15 addresses design specifications rather than service and disposal practices, and ASHRAE 15 requirements are codified and enforced by state or local building codes rather than by contractor licensing boards or Federal agencies.

Similarly, the American Industrial Hygiene Association has developed exposure limits for HFCs. These may be referenced by OSHA under its general duty clause to compel employers to protect employees from identified health hazards. However, local exhaust ventilation rather than recycling may be used to minimize exposures during service and disposal operations that involve significant releases of refrigerant. This will reduce worker exposure to the refrigerant, but will not reduce the exposure of the general environment.

Finally, many of the statutory and regulatory mechanisms that limit release of other substitutes do not apply to HFCs or PFCs. HFCs and PFCs are not listed chemicals for the purposes of the Superfund Amendments and Reauthorization Act (SARA) Title III or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) reporting requirements; nor are they listed as EPA section 112(r) hazardous air pollutants.

Several commenters advised EPA to take a balanced view of HFC refrigerants' threat to the environment by including discussions on the associated benefits of their use. Commenters stated that HFCs contribute considerably less to greenhouse gas emissions than their precursors in many applications, promote energy efficiency, and in many instances are cost-effective alternatives to ozone-depleting refrigerants.

The Act prohibits the release of a substitute for a class I or class II ODS refrigerant unless EPA determines that such a release "does not pose a threat to the environment." The commenters make valid points that in some circumstances HFC refrigerants may contribute less to greenhouse gas emissions than their precursors in some applications; promote energy efficiency; and in many instances are cost-effective alternatives to ozone-depleting refrigerants. Nonetheless, for the reasons discussed above, EPA concludes that HFC and PFC refrigerants have adverse environmental effects. For this reason, and because of a lack of regulation governing the release of such substitute refrigerants, EPA is not making a determination that the release of HFC or PFC refrigerants "do not pose a threat to the environment." Hence, the statutory venting prohibition remains in effect for these refrigerants, and the knowing venting of HFC and PFC refrigerants during the maintenance, service, repair and disposal of appliances remains illegal.

2. Chemically Active Common Gases

In the NPRM, EPA proposed to find that the release of either of the two SNAP-approved chemically active common gases used as refrigerants (*i.e.*, ammonia and chlorine) during the service, maintenance, repair, and disposal of appliances does not pose a threat to the environment under section 608.

EPA received comments supporting the exemptions for ammonia and chlorine, as long as the exemptions are restricted to their use in industrial process applications, because it accurately asserts that the release of ammonia and chlorine refrigerants is properly safeguarded and controlled by other authorities. Commenters supported EPA's proposed determination that the release of ammonia and chlorine refrigerants used during the servicing, maintenance, repair, and disposal of appliances does not pose a threat to the environment under section 608(c)(2).

Occupational exposure to ammonia is primarily controlled by OSHA requirements and national and local building and fire codes. OSHA sets permissible exposure limits (PELs) to protect workers against the health effects of exposure to hazardous substances. PELs are regulatory limits on the amount or concentration of a substance in the air, based on an 8-hour time weighted average (TWA) exposure. PELs are enforceable by OSHA. OSHA has established a PEL for ammonia of 50 ppm. This is an enforceable standard that can be met through containment, safe disposal, ventilation, and/or use of personal protective equipment. OSHA also has requirements in place to prevent catastrophic releases, including the Hazardous Waste Operations and Emergency Response Standard (HAZWOPER), the Hazard Communication Standard, and Process Safety Management (PSM) regulations that cover systems containing more than 10,000 pounds of ammonia. These standards require employee training,

[3] U.S. EPA. 1994. *Risk Screen on the Use of Substitutes for Class I Ozone-Depleting Substances: Refrigeration and Air-Conditioning.* Office of Air and Radiation, March 15, 1994. *Regulatory Impact Analysis for the Substitutes Recycling Rule,* Office of Air and Radiation, 1998).

[4] ASHRAE 15, *Safety Code for Mechanical Refrigeration,* is an industry standard developed by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). ASHRAE 15 forms the basis for state and local building codes throughout the U.S.

[5] ASHRAE Guideline 3 recommends recycling of all fluorocarbon refrigerants, but is not codified or enforced by any Federal agency.

emergency response plans, and written standard operating procedures.

State and local codes, based upon ASHRAE 15, impose strict quantity limits for direct-type ammonia refrigeration systems (which possess no secondary heat transfer fluid), and generally prohibit the use of ammonia in direct-type comfort cooling systems. In accordance with the standard, indirect type ammonia refrigeration and air-conditioning systems (which possess a secondary heat transfer fluid) must be housed in a separate mechanical equipment room. This equipment room must meet the requirements listed above for HFC equipment rooms and must also meet several fireproofing requirements.

Releases of ammonia to the wider environment are addressed by several authorities. CERCLA and SARA require reporting of accidental and intentional releases of ammonia to the atmosphere. Under CERCLA section 103 and SARA Title III section 304, releases of more than 100 pounds of ammonia must be reported immediately, unless they are "federally permitted" such as through the National Pollutant Discharge Elimination System (NPDES), State Implementation Plans (SIPs), etc. In such cases, releases are controlled under the permitting authority.

The more common release of ammonia is due to disposal. Disposal is generally performed by mixing the ammonia with water, which lowers or neutralizes the pH of the ammonia, and then disposing of the water/ammonia solution. Releases of ammonia to surface waters are governed by permits issued by states (or, in some cases, by EPA Regional Offices) to publicly owned treatment works (POTWs) under NPDES. NPDES permits must include conditions necessary to meet applicable technology-based standards and water quality standards. Water quality standards established by states consist of a designated use for the waters in question, water quality criteria specifying the amount of various pollutants that may be present in those waters and still allow the waters to meet the designated use, and anti-degradation policies.

Entities that discharge to a POTW (usually through a municipally-owned sewer system) must themselves comply with Clean Water Act pretreatment requirements, which may include categorical pretreatment standards on an industry-by-industry basis as well as local limits designed to prevent interference with the biological processes of the treatment plant (or pass through of pollutants). Notification and approval requirements enable POTWs to manage the treatment process, avoid ammonia overloading, and protect the treatment processes, collection systems, and facility workers. The POTW typically considers a number of factors before granting discharge approval for ammonia, including the POTW plant's treatment capacity, existing industry discharge patterns, the impact on the POTW's biological treatment processes, the effect on the sewage collection systems (*i.e.*, sewer lines), and the possible hazards to workers at the plant or in the field. The POTW also considers the possibility that ammonia disposed from refrigeration systems may largely be converted to other forms of nitrogen (*e.g.*, nitrates) before arriving at the POTW facility.

Ammonia is also listed as a regulated substance for accidental release prevention in the List of Substances and Thresholds rule (59 FR 4478; January 31, 1994) promulgated under section 112(r) of the Clean Air Act. This rule states that if a stationary source handles more than 10,000 pounds of anhydrous ammonia (or 20,000 pounds of 20% or greater aqueous ammonia) in a process, it is subject to chemical accident prevention regulations promulgated under section 112(r). These regulations, which were published on June 20, 1996 (61 FR 31668), require stationary sources to develop and implement a risk management program that includes a hazard assessment, an accident prevention program (including training and the development of standard operating procedures), and an emergency response program. In addition, section 112(r)(1) states that companies have a general duty to prevent accidental releases of extremely hazardous substances, including ammonia and chlorine.

Chlorine has not been submitted or approved under SNAP, for use as a class I or class II ODS refrigerant substitute, except in industrial process refrigeration. In this application, chlorine could come into contact with workers, the general population, and the environment. Regulatory impact and risk screen analyses performed for both this rule and the SNAP rule indicate that regulatory requirements and industry practices are likely to keep the exposure of workers, the general population, and the environment to ammonia and chlorine below levels of concern. Exposures to chlorine are controlled through many of the same regulatory mechanisms that control exposures to ammonia, except enforceable concentration and release limits are lower for chlorine than for ammonia. For instance, the OSHA PEL for chlorine is one ppm compared to 50 ppm for ammonia. Similarly, the reporting threshold under CERCLA section 103 and SARA Title III for chlorine releases is 10 pounds compared to 100 pounds for ammonia, and the quantity of chlorine that triggers requirements under section 112(r) is 2,500 pounds per process. In addition to these requirements, chlorine is subject to restrictions under sections 112(b) and 113 of the Act. Chlorine is listed as a Hazardous Air Pollutant (HAP) under section 112(b) of the Act, and under section 113 of the Act criminal penalties can be assessed for negligently releasing HAPs into the atmosphere.

In the proposal, EPA requested comment on whether there are chlorine sources that are "major sources" under CAA section 112(a). Section 112 defines "major source" as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of HAPs. Such sources could be restricted, controlled, and/or phased-out of production. The Maximum Achievable Control Technology (MACT) standards under Section 112 of the Act, classify chlorine as a controllable HAP.

EPA received comment stating that chlorine manufacturing plants could be considered as "major sources" under section 112 of the Act, because the Act defines a major source to include all actual and potential emissions of all hazardous air pollutants from all facilities and processes at one site. The potential emissions due to chlorine's use as a refrigerant may be small, but the potential emissions are large enough to make the site "major."

Current industry practices and engineering controls in chlorine manufacture are applied to the use of chlorine as a refrigerant, minimizing potential releases and exposures. These practices and controls include use of system alarms that activate at chlorine concentrations of one ppm, use of self-contained breathing apparatus during servicing, isolation of liquid chlorine in receivers during servicing, and use of caustic scrubbers to neutralize gaseous chlorine during servicing. Such monitoring efforts are included in ASHRAE 15 and ASHRAE Guideline 3—"Reducing Emission of Halogenated Refrigerants in Refrigeration in Refrigeration and Air-Conditioning Equipment and Systems," these standards are typically adopted into service standard operating procedures and local building codes. The charge sizes in the refrigeration system are

several times smaller than the quantity of chlorine in the process stream and bulk storage, and chlorine emissions from the refrigeration system are likely to be significantly smaller than those emanating from the process and storage systems, which are already well controlled for safety and health reasons.

Because releases of ammonia and chlorine from their currently approved air-conditioning and refrigeration applications are adequately addressed by other authorities, EPA is making the determination that the release of ammonia and chlorine refrigerants during the service, maintenance, repair, and disposal of appliances does not pose a threat to the environment under section 608(c)(2). This determination does not endorse the venting of ammonia and chlorine refrigerants. The Agency supports responsible handling of these refrigerants during the service, maintenance, repair, and disposal of appliances. However, EPA believes that regulating these substances under section 608, and in particular requiring that the practices currently in place for class I and class II refrigerants be applied to these substances, would not provide additional substantial public health or environmental protection, since the use and release of these compounds are adequately addressed by other authorities.

3. Hydrocarbons

In the NPRM, EPA proposed to find that the release of hydrocarbon (HC) refrigerants during the servicing and disposal of such systems does not pose a threat to the environment under section 608, because the use of HC refrigerants as substitutes for class I or class II ODS refrigerants is limited and the releases are adequately controlled by other authorities. EPA requested comment on this proposed finding and on the rationale behind it.

Commenters expressed concern that the NPRM was deficient, in that it did not include a mechanism to address alternative or future applications for hydrocarbons (*e.g.*, hydrocarbon technology in household refrigeration).

Under SNAP, EPA has approved hydrocarbon refrigerants as substitutes for class I or class II ODS refrigerants only for use in industrial process refrigeration systems.[6] Therefore, it is illegal to use a hydrocarbon refrigerant as a substitute for a class I or class II ODS refrigerant for any end use other than industrial process refrigeration systems.

Commenters generally supported EPA's determination that the release of hydrocarbon refrigerants during the servicing, maintenance, repair, and disposal of appliances does not pose a threat to the environment under section 608(c)(2). Commenters noted that hydrocarbon refrigerants are regulated appropriately as criteria pollutants and/or hazardous air pollutants.

Hydrocarbons are volatile organic compounds (VOCs) that degrade in the lower atmosphere, contributing to ground-level (or tropospheric) ozone, also referred to as smog. Unlike stratospheric ozone, which forms naturally in the upper atmosphere and protects us from the sun's harmful ultraviolet rays, ground-level ozone is created through the interactions of man-made (and natural) emissions of VOCs and nitrogen oxides in the presence of heat and sunlight. Ground-level ozone does not deplete the stratospheric ozone layer; but when inhaled (even at very low levels), ozone can cause acute respiratory problems; aggravate asthma; cause significant temporary decreases in lung capacity in some healthy adults; cause inflammation of lung tissue; and impair the body's immune system defenses, making people more susceptible to respiratory illnesses, including bronchitis and pneumonia; and reduce agricultural yields for many economically important crops (*e.g.*, soybeans, kidney beans, wheat, cotton). The scientific support papers referenced in the National Ambient Air Quality Standards (NAAQS) for Ozone (62 FR 38856) describe numerous documents that identify and discuss the adverse environmental and health effects of ground-level ozone.

Propane, ethane, propylene, and to some extent butane are used as refrigerants in specialized industrial applications, primarily in oil refineries and chemical plants. In these applications they are frequently available as part of the process stream, and their use contributes only a slight additional increment to the overall risk of fire or explosion. Such systems are generally designed to comply with the safety standards required for managing flammable chemicals. In this application, hydrocarbons have the potential to come into contact with workers, the general population, and the environment.

Occupational exposures to hydrocarbons are primarily controlled by OSHA requirements and national and local building and fire codes. As noted above, OSHA has established a PEL for propane of 1,000 ppm, and NIOSH has established an Immediately Dangerous to Life and Health (IDLH) limit of 20,000 ppm and 50,000 ppm for propane and butane respectively. The PEL is an enforceable standard, and the IDLHs trigger OSHA personal protective equipment requirements. OSHA's Process Safety Management, confined space entry, and HAZWOPER requirements apply to all hydrocarbon refrigerants. These requirements include employee training, emergency response plans, air monitoring, and written standard operating procedures.

Certain hydrocarbons (including butane, cyclopropane, ethane, isobutane, methane, and propane) are listed as regulated substances for accidental release prevention under regulations promulgated under section 112(r) of the Act. In addition, hydrocarbons are considered VOCs, and are therefore subject to State VOC regulations implemented in accordance with the Act.

ASHRAE 15 prohibits the use of hydrocarbon refrigerants except in laboratory and industrial process refrigeration applications. Refrigeration machinery must be contained in a separate mechanical equipment room that complies with the requirements for HFC equipment rooms and also complies with several fireproofing requirements.

According to industry and OSHA representatives, current industry service practices for hydrocarbon refrigeration equipment include monitoring efforts, engineering controls, and operating procedures. System alarms, flame detectors, and fire sprinklers are used to protect process and storage areas. Fugitive emissions monitoring is routinely conducted, and leak repairs are attempted within five days. If initial repair attempts are unsuccessful, the system is shut down, unless releases from a shutdown are predicted to be greater than allowing a continued leak. During servicing, OSHA confined space requirements are followed, including continuous monitoring of explosive gas concentrations and oxygen levels.

Hydrocarbon refrigerants may be returned to the product stream or can be released through a flare during servicing. Due to fire and explosion risks and the economic value of the hydrocarbon, direct venting is not a widely used procedure. In general, hydrocarbon emissions from refrigeration systems are likely to be significantly smaller than those emanating from the process and storage systems, which are already well-controlled for safety reasons.

[6] Under SNAP, EPA restricts the use of hydrocarbon refrigerants as substitutes for ozone-depleting refrigerants to industrial process refrigeration systems and recommends (but does not require) that hydrocarbon refrigerants only be used at industrial facilities which manufacture or use hydrocarbons in the process stream (March 18, 1994, 59 FR 13076).

Because the release of hydrocarbons from industrial process refrigeration systems is adequately addressed by other authorities, EPA determines that the release of hydrocarbon refrigerants during the servicing and disposal of such systems does not pose a threat to the environment under section 608(c)(2) of the Act. Today's determination does not endorse the venting of hydrocarbon refrigerants. The Agency supports responsible handling of these refrigerants during the service, maintenance, repair, and disposal of appliances. However, EPA believes that regulating these substances under section 608, and in particular requiring that the practices currently in place for class I and class II refrigerants be applied to these substances, would not provide additional substantial public health or environmental protection, since the use and release of these compounds are adequately addressed by other authorities.

The determination that the release of hydrocarbon refrigerants does not pose a threat to the environment only applies to the end-use sector for which hydrocarbon refrigerant substitutes are approved, namely industrial process refrigeration. Therefore the venting prohibition does not apply for hydrocarbon substitutes in non-approved applications (*e.g.*, comfort cooling or motor vehicle air-conditioning), since their use as a substitute in other end-use sectors is illegal.

4. Inert Atmospheric Constituents

In the NPRM, EPA proposed to find that the release or disposal of CO_2 refrigerant during the servicing and disposal of appliances does not pose a threat to the environment under section 608. EPA also requested comment on the factual basis for this proposal.

Under SNAP, EPA has approved CO_2 as a replacement for CFC–13, R–13b1 and R–503 in very low temperature and industrial process refrigeration applications. EPA has also approved CO_2 as a substitute for R–113, R–114, and R–115 in non-mechanical heat transfer applications. Carbon dioxide is a well-known, nontoxic, nonflammable gas. Its GWP is defined as one, and all other GWPs are indexed to it. EPA's understanding is that CO_2 is readily available as a waste gas, and therefore no additional quantity of CO_2 needs to be produced for refrigeration applications. Thus, the use and release of such commercially available CO_2 as a refrigerant would have no net contribution to global warming.

EPA has approved direct nitrogen expansion as an alternative technology for many CFC and HCFC refrigerants used in vapor compression systems. Nitrogen is a well-known, nontoxic, nonflammable gas that makes up 78 percent of the Earth's atmosphere. Nitrogen contributes neither to global warming nor to ozone-depletion.

EPA has approved evaporative cooling as an alternative technology for MVACs using CFC–12 as a refrigerant. Evaporative cooling operates simply through the evaporation of water to the atmosphere. Water released from evaporative cooling is nontoxic and contributes neither to ozone-depletion nor to global warming. Furthermore, EPA has determined that the use of water or air as a coolant is not included under the definition of "refrigerant."

EPA received no comments in opposition to the proposal to exempt inert atmospheric constituents from the venting prohibition. Therefore, EPA determines that the release of CO_2 refrigerant, elemental nitrogen, or water during the maintenance, service, repair, and disposal of appliances does not pose a threat to the environment under section 608, and therefore their uses as substitute refrigerants are exempt from the venting prohibition. The finding for the use of CO_2 only applies to the SNAP-approved end-uses for CO_2, namely very low temperature and industrial process refrigeration applications.

IV. The Final Rule

A. Overview

EPA is promulgating regulations that identify substitute refrigerants that are exempt from the section 608 venting prohibition, because the Agency finds that their release does not pose a threat to the environment. For all substitute refrigerants other than those specifically identified as not posing a threat to the environment, it remains unlawful pursuant to section 608(c)(2) to knowingly vent, release, or dispose of such substance in a manner that permits it to enter the environment.

In the NPRM, EPA proposed, and in today's action has made changes to a number of the regulations covering CFC and HCFC refrigerants. Several of these changes are intended to accommodate the growing number of refrigerants, including newer blended HFC/HCFC substitutes, that are subject to the regulations because they consist of a class II ODS. For refrigerant substitutes consisting of a class I or class II ODS, EPA is mandating identical required practices and clarifying the prohibitions promulgated at 40 CFR part 82, subpart F. Such changes include the adoption of evacuation requirements based solely on the saturation pressures of refrigerants, the requirement for service apertures on appliances, mandatory certification of service technicians, and the restriction on the sales of such blended refrigerants.

EPA is not, however, finalizing the proposal to extend all of the regulations concerning emissions reduction of CFC and HCFC refrigerants, found at 40 CFR part 82, subpart F, to HFC and PFC refrigerants. Therefore, today's rule does not mandate any of the following proposed requirements for HFC or PFC refrigerants that do not consist of a class I or class II ODS (*i.e.*, pure HFC or PFC refrigerants): A sales restriction on HFC or PFC refrigerants; specific evacuation levels for servicing HFC or PFC appliances; certification of HFC or PFC recycling and recovery equipment; certification of technicians who work with HFC or PFC appliances; reclamation requirements for used HFC and PFC refrigerants; certification of refrigerant reclaimers who reclaim only HFCs or PFCs; or leak repair requirements for HFC and PFC appliances.

EPA intends to address in future rulemakings other components of the NPRM, such as the use of representative refrigerants from saturation pressure categories for certifying recycling and recovery equipment and adoption (with modification) of the ARI 740 industry recovery/recycling equipment standard, which includes a number of refrigerants that were omitted from its predecessors.

EPA also proposed to reduce the maximum allowable leak rates for appliances containing more than 50 pounds of an ODS refrigerant; changes to the leak repair requirements promulgated at § 82.156(i), the associated recordkeeping provisions at § 82.166(n) and (o), and the definition of "full charge" at § 82.152; and a proposed definition for "leak rate" under § 82.152 for the purposes of § 82.156(i). The leak repair provisions will also be finalized in a separate rulemaking. EPA believes that addressing these components in separate rulemakings will simplify today's action, by focusing on the determination of which refrigerant substitutes pose a threat to the environment.

B. Application of the Venting Prohibition and Required Practices to Substitute Refrigerants

1. HFC and PFC Refrigerants

While EPA is not finalizing the proposal to extend the full regulatory framework for CFC and HCFC refrigerants to HFC and PFC refrigerants,

the Agency emphasizes that since no determination has been made that their release does not pose a threat to the environment, the statutory venting prohibition applies to these refrigerants.

2. Chemically Active Common Gases

EPA determines that for the purposes of section 608, the release of chlorine and ammonia refrigerants does not pose a threat to the environment, because the release of these refrigerants during the maintenance, service, repair, and disposal of appliances is adequately controlled by other authorities in the air-conditioning and refrigeration applications where they are currently used. Therefore, the venting prohibition does not apply to these substances in those applications, and the Agency is not adopting recycling requirements for these refrigerants at this time. EPA's findings apply to current SNAP-identified end uses only (*www.epa.gov/ozone/snap/index.html*). If ammonia and chlorine refrigerants are granted approval under SNAP for use in other applications, EPA will evaluate whether regulations governing their use under section 608 should apply in those applications.

3. Hydrocarbons

EPA determines that for the purposes of section 608, the release of hydrocarbons during the maintenance, repair, service and disposal of appliances does not pose a threat to the environment, because such releases are adequately controlled by other authorities. Therefore, the venting prohibition does not apply to these substances and the Agency is not adopting recycling requirements for these refrigerants at this time. EPA's findings apply to current SNAP-identified end uses only (*www.epa.gov/ozone/snap/index.html*). If hydrocarbon refrigerants are granted approval under SNAP for applications other than industrial process refrigeration, EPA will evaluate whether regulations governing their use under section 608 should apply in those applications.

C. Definitions

1. Appliance

In the NPRM, EPA proposed to amend the definition of "appliance" to include air-conditioning and refrigeration equipment that contain class I and class II ODSs and their substitutes. The proposed amendment to the definition of appliance did not have an effect on its applicability to all air-conditioning and refrigeration equipment except for those designed and used exclusively for military applications; hence, the definition includes: household refrigerators and freezers, commercial refrigeration appliances, other refrigeration appliances (such as refrigerated cargo compartments of trucks), residential and light commercial air-conditioning, motor vehicle air conditioners, comfort cooling in vehicles not covered under section 609, and industrial process refrigeration.

EPA received comment stating that the Act defines the term "appliance," and for the purposes of the 608 refrigerant recycling rule. The commenter requested that the Agency either eliminate or revise its proposed definition of "appliance" to match the statute. The commenter feared that the Agency might include as an appliance equipment that doesn't use a refrigerant, as specified in section 608 of the Act, and noted that this is an important clarification because some substances have many different refrigerant and non-refrigerant uses.

EPA also received comments opposed to the inclusion of motor vehicle air conditioners (MVACs) in the definition of appliance. The commenters stated that there is no evidence that Congress intended to include MVACs as "appliances" to be regulated under sections 601(1) or 608(c)(2). A commenter argued that only section 609, which specifically authorizes regulation of MVACs, authorizes regulation of MVACs. The commenter emphasizes that neither section 601(1) or 608(c)(2) includes motor vehicle air-conditioners as an example of an "appliance." Therefore, the commenter argued that EPA does not have authority to regulate MVACs as an appliance under section 608.

In the 1993 final rulemaking (58 FR 28660), "appliance" was defined at § 82.152, as "any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer." The preamble discussion in section III.E. concerning the definition of "appliance" (May 14, 1993, 58 FR 28660) discussed in detail the Agency's rationale for inclusion of MVAC in the definition of "appliance." While the preamble language discussed the inclusion of MVAC, the final definition did not explicitly include MVAC. Since 1993, EPA has consistently interpreted MVAC to be included under the definition of appliance.

The preamble to the proposed rule states: "EPA is proposing to amend the current definition of 'appliance' to include air-conditioning and refrigeration equipment that contains *substitutes* for class I and class II substances, as well as equipment that contains class I and class II substances." (emphasis added) (63 FR 32053). EPA proposed to continue to interpret "appliance" to include all air-conditioning and refrigeration equipment except that is designed and used exclusively for military applications. Thus, the term "appliance" includes household refrigerators and freezers (which may be used outside the home), other refrigeration appliances, residential and light commercial air-conditioning, motor vehicle air-conditioners, comfort cooling in vehicles not covered under section 609, and industrial process refrigeration (63 FR 32053).

EPA proposed to delete the phrase "a class I or class II substance as" leaving simply the reference to "refrigerant," which would have encompassed both class I and class II substances and substitutes for such substances. EPA proposed no other amendments to the definition of "appliance." EPA refers readers to the May 14, 1993, rulemaking 1993 (58 FR 28660) for detailed discussion of the inclusion of MVAC in the Agency's interpretation of the definition of appliance.

EPA is amending the definition of "appliance" to include air-conditioning and refrigeration equipment that contain substitute refrigerants consisting of a class I or class II substance. The amended definition now reads, "*Appliance* means any device which contains and uses a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer." EPA will continue to interpret "appliance" to include all air-conditioning and refrigeration equipment, except that designed and used exclusively for military applications. Thus, the term "appliance" includes household refrigerators and freezers (which may be used outside the home), other refrigeration appliances, residential and light commercial air-conditioning, motor vehicle air conditioners (MVACs), comfort cooling in vehicles not covered under section 609 (such as buses using R–22), electrical transformers, secondary refrigeration loops, and industrial process refrigeration equipment.

a. One-Time Expansion Devices, Including Self-Chilling Cans

While EPA proposed to exempt some substitute refrigerants in one-time expansion applications from the section 608 requirements, because their release does not pose a threat to the

environment (*see* the discussion of CO_2 above), EPA did not propose and cannot make this finding for the HFC refrigerants that have been suggested for use in one-time expansion devices.

One-time expansion devices are appliances, and the release of substitute refrigerants from such appliances is prohibited by section 608(c)(2), unless EPA finds that the release of these refrigerants does not pose a threat to the environment. One-time expansion devices, which include "self-chilling cans," rely on the release and associated expansion of a compressed refrigerant to cool the contents (*e.g.*, a beverage) of a container. EPA considers refrigerant releases from such devices to be prohibited by section 608(c). First, the refrigerant in these devices acts as a not-in-kind substitute for CFCs and HCFCs in household and commercial refrigerators. Although the refrigerant in a one-time expansion device is not being used in the same system as CFC–12 in a household or commercial refrigerator, it is providing the same effect of cooling the container. EPA has previously considered not-in-kind technologies, such as evaporative cooling, to be substitutes under SNAP. The SNAP regulation defines "substitute or alternative" as "any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or II compound."

This approach is consistent with the language of section 612 of the Act, in which Congress repeatedly identified "product substitutes" as substitutes for class I and class II substances. Section 612(a) states the policy of the section: "To the maximum extent practicable, class I and class II substances shall be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment."[7] As stated in the SNAP regulation, EPA has interpreted the phrase "substitute substances" in 612(c) to incorporate the general definition of substitute in 612(a) and 612(b)(3) and (4) (59 FR 13050). As noted above, the definition of "substitute" in today's action is very similar to that in the SNAP regulations, except the definition omits the proviso that the substitute be *intended* for use as a replacement for a class I or class II substance. Thus, under the definition in today's action and consistent with the definition in the SNAP regulations and section 612 of the Act, EPA considers the refrigerant in a one-time expansion device to be a "substitute substance" under section 608(c)(2).

Secondly, one-time expansion devices, which rely on the release of compressed gases to cool the contents of containers, are encompassed by the term "appliance." A one-time expansion device is a device that holds and uses a substitute substance to make the contents of the container cool for individual consumption. Thus, it is a "device which contains or uses" a "refrigerant" "for household or commercial purposes." The operating principle of a one-time expansion device is the same as that of a traditional refrigerator, that is vapor compression and expansion. The difference between a one-time expansion device and a traditional refrigerator is that, with a one-time expansion device, the compression part of the vapor-compression/expansion cycle takes place at the factory, and the refrigerant escapes during expansion instead of being cycled back to a compressor to be recompressed.

Thirdly, EPA believes that the act of opening a one-time expansion device constitutes disposal of the device. This interpretation is consistent with the definition of "disposal" included in the recycling and emissions reduction regulations at § 82.152. "Disposal" is "the process leading to and including:

- The discharge, deposit, dumping or placing of any discarded appliance into or on any land or water;
- The disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water; or
- The disassembly of any appliance for reuse of its component parts."

Opening the device irreversibly discharges the refrigerant and thereby ends the useful life of the cooling device. Cooling the container is a one-time action that occurs immediately prior to consuming or using its contents, after which the remaining component parts of the appliance will be discarded. In addition, with the irreversible discharge of the critical portion of the cooling device, the appliance has been partially disassembled and one of its component parts has been discharged. Thus, the act of opening the device and cooling the container is a process that leads quickly and inevitably to the final disposal of the appliance, and the act itself includes the permanent disassembly of the appliance and discharge of one of the component parts. Finally, the act of opening the device is a "knowing" release of refrigerant, as a person opening the device could not fail to be aware that his or her action is causing release of a gas to the atmosphere. Thus, the release occurs in the course of "maintaining, servicing, repairing, or disposing of an appliance" and is subject to the venting prohibition.

One commenter believed that the Agency's interpretation of one-time expansion device is flawed, because it is so broad that it would include equipment that the Agency would not want to regulate, such as fire extinguishers. The commenter requested EPA to state specifically that EPA intends to ban self-chilling beverage cans.

For purposes of clarity, the Agency has determined that one-time expansion devices, which include "self-chilling cans," that rely on the release and associated expansion of a compressed refrigerant to cool the contents (*e.g.*, a beverage) of a container, are considered appliances. Any one-time expansion device that does not rely on the release and expansion of a refrigerant for cooling purposes would not fall under the definition of appliance. In addition, EPA reminds readers that the final rule published on March 5, 1998 (63 FR 11084), prohibits the intentional release of any class I ODS (*i.e.*, Halon 1211, Halon 1301, and Halon 2402) during the testing, repairing, maintenance, servicing, or disposal of halon-containing equipment. The rule became effective April 6, 1998.

b. Secondary Loops

Rather than cooling things or people directly, many refrigeration and air-conditioning systems operate by cooling an intermediate fluid, which is then circulated to the things or people to be cooled. This intermediate fluid (and the structure for transporting it) is referred to as a secondary loop. Secondary loops are commonly used in comfort cooling chillers, industrial process refrigeration equipment, and some specialty and commercial refrigeration systems.

The definition of "appliance" with respect to secondary loops is somewhat ambiguous under the Act. Given this ambiguity, EPA proposed to interpret as part of an "appliance," refrigerant loops that (1) are primary or (2) move heat from cooler to warmer areas or (3) involve a change of state of the fluid. In the proposal, EPA requested comment on its interpretation of "appliance" as it applies to secondary loops. Specifically, EPA requested comment on whether there are human health or environmental risks that could be

[7] Section 612(b)(3) directs EPA to "specify initiatives * * * to promote the development and use of safe substitutes for class I and class II substances, including alternative chemicals, product substitutes, and alternative manufacturing processes" (emphasis added). Similarly, § 612(b)(4) requires EPA to "maintain a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes."

significantly reduced by subjecting to the venting prohibition secondary loops that transport heat from warmer to cooler areas without a change of state. EPA also requested comment on the extent to which ozone depleting substances, such as HCFC–123, are used in secondary loops that transport heat from warmer to cooler areas.

The majority of comments received in response to EPA's requests, recommended that secondary loops containing a regulated refrigerant be covered under the provisions of the section 608 recycling regulations. The majority of commenters agreed with the Agency's decision to include, under the definition of appliance, refrigerant loops that are primary to the system or secondary involving a change of state of refrigerant, while excluding secondary loops that do not involve a change of state.

EPA received no comments in response to the proposal's request for information concerning the extent to which ozone depleting substances, such as HCFC–123, are used in secondary loops that transport heat from warmer to cooler areas or the need to require recovery of such substances used in secondary loops. The Agency believes that it is not necessary to specify secondary loops using regulated refrigerants as part of an appliance, since they are already subject to the section 608(c) venting prohibition. Therefore, EPA is interpreting "appliance" consistent with the language and purpose of section 608, and that it is reasonable to interpret as part of an "appliance" refrigerant loops that (1) are primary or (2) involve heat transfer with a change of state. Such systems may include cascade systems, electric transformers, or any secondary loop containing a regulated refrigerant. Under this interpretation, secondary loops that use substances not covered under the definition of refrigerant (as defined at § 82.152) such as water, brine, and glycol solutions thereof *will not* be considered to be part of an "appliance."

EPA believes that this interpretation covers those secondary loops, using a class I or class II ODS as a refrigerant, that have traditionally been considered to be part of the air conditioner or refrigerator, while excluding those that are not. Furthermore, this interpretation excludes for the definition of appliance air-conditioning and refrigerating components that do not use an ODS. Thus, EPA believes that this interpretation is consistent with Congress' intent regarding the scope of EPA's regulatory authority over "appliances."

This interpretation is also consistent with EPA's decision not to list secondary fluids under SNAP. In that decision, published in SNAP Notice 6 (62 FR 10700, March 10, 1997), EPA expressed concern that due to the large number of secondary fluids, any listing of secondary fluids could discourage their use and could be very burdensome to the Agency and the regulated community. In addition, the Agency noted that there was little information or data suggesting that the use of these fluids in secondary loops posed an environmental or safety risk.

2. Full Charge

While EPA had proposed changes to the definition of full charge as it relates to the leak repair required practices found at § 82.156, the Agency has decided to address this definition, including public comments concerning the definition in a separate rulemaking dedicated to finalizing the leak repair components of the NPRM. Based on the comments received, EPA believes that this issue will be more appropriately addressed separately.

3. High-Pressure Appliance (Proposed as Higher-Pressure Appliance)

In the NPRM, EPA proposed to create a new category of "higher-pressure appliance" whose refrigerants have saturation pressures between 220 psia and 305 psia at 104 °F. Appliances in this category would be subject to the original evacuation requirements for HCFC–22 appliances.

While EPA received supporting comments concerning the proposed definition of the higher-pressure appliance category, the Agency received a request to change the category name to "high-pressure appliance." The commenter stated that this change reflects common field nomenclature and would avoid confusion.

EPA agrees with the commenter and today is finalizing a new category of "high-pressure appliance." These appliances contain refrigerants with saturation pressures between 170 psia and 355 psia at 104 °F. This category was proposed as the "higher-pressure appliance" category, but the category name was changed to reflect common field nomenclature and to remain as close as possible to the ARI groupings for the ARI Standard 740 for refrigerant recovery and recycling equipment. The Agency has changed the dividing lines to 170 psia and 355 psia in an effort to retain consistency between the previous evacuation requirements and the procedures used for certification of recovery equipment used to obtain the evacuation levels. As discussed in greater detail below, EPA has altered the classification scheme by eliminating the special evacuation category for R–22 and replacing it with a new saturation pressure category that includes the "high-pressure" refrigerants with saturation pressures between 170 psia and 355 psia at 104 °F. This change enables EPA to tailor requirements to refrigerants with relatively high saturation pressures, while retaining the long standing evacuation requirements for appliances using R–22 refrigerant.

Appliances in this category are subject to the same requirements previously reserved for HCFC–22 appliances. This action's definition of "refrigerant" limits the applicability of the high-pressure appliance definition to appliances that use a CFC or HCFC refrigerant, or a blend containing a CFC or HCFC refrigerant, with a liquid phase saturation pressure between 170 psia and 355 psia at 104 °F. The definition of "high-pressure appliances" reads as follows: High-pressure appliance means an appliance that uses a refrigerant with a liquid phase saturation pressure between 170 psia and 355 psia at 104 °F. This definition includes but is not limited to appliances using R–401A, R–409A, R–401B, R–411A, R–22, R–411B, R–502, R–402B, R–408A, and R–402A.

4. Leak Rate

While EPA had proposed to officially define "leak rate" in the NPRM for purposes of clarity when applying the leak repair requirements contained in § 82.156(i), the Agency has decided to address this definition, including public comments concerning the definition in a separate rulemaking dedicated to finalizing the leak repair components of the NPRM. Based on the comments received, EPA believes that this issue will be more appropriately addressed separately.

5. Low-Pressure Appliance

In the NPRM, EPA proposed to revise the definition of "low-pressure appliance" to refer to saturation pressures at 104 °F rather than boiling points. This proposal to define low-pressure appliances according to saturation pressure was intended in part to make it easier for technicians to remember and implement when compared to standards that varied both by saturation pressure and type of refrigerant. Without such a change, the number of new evacuation categories could conceivably have been doubled by the influx of new substitute refrigerants.

The Agency received no comments concerning the proposed revision. Therefore, EPA has revised the

definition of "low-pressure appliance" to refer to saturation pressures at 104 °F rather than boiling points. The revised definition reads: Low-pressure appliance means an appliance that uses a refrigerant with a liquid phase saturation pressure below 45 psia at 104 °F. This definition includes but is not limited to appliances using R–11, R–123, and R–113.

6. Opening

In the NPRM, EPA proposed to amend the definition of "opening" to include service, maintenance, or repair of an appliance that would release class I, class II, or substitute refrigerants unless the refrigerant were recovered previously from the appliance. EPA also requested comment on adding disposal to the definition of "opening."

EPA received one comment representing the scrap and recycling industry in opposition to adding the term "or disposal" to the definition of "opening." The commenter was opposed on the grounds that the NPRM did not distinguish between recycling and disposal.

Sections 608 (b)(1) and 608(c)(2) of the Act require that class I, class II, and their substitute refrigerants contained in bulk in appliances be removed from the appliance prior to disposal or their delivery for recycling. The Agency does not interpret this statutory language to mean that scrap recyclers who choose to dispose of appliances or choose to accept appliances (or their parts) with refrigerant charges intact are exempt from the Required Practices codified at § 82.156 (including the acquisition of recovery equipment that meets the standards set forth in § 82.158). EPA refers readers to the May 14, 1993, rulemaking 1993 (58 FR 28660) for detailed discussion of the Agency's long standing interpretation of scrap metal recycling's inclusion in the term "final disposal."

Therefore, EPA has amended the definition of "opening" to include any service, maintenance, repair, or disposal of an appliance that would release refrigerant from the appliance to the atmosphere unless the refrigerant was recovered previously from the appliance. Connecting and disconnecting hoses and gauges to and from the appliance to measure pressures within the appliance and to add refrigerant to or recover refrigerant from the appliance shall not be considered "opening."

7. Reclaim

In the NPRM, EPA proposed to amend the definition of "reclaim" to reflect the update of the refrigerant standards at Appendix A from standards based on ARI Standard 700–1993 to standards based on ARI Standard 700–1995. In addition, EPA proposed to amend the definition of "reclaim" to remove the reference to a "purity" standard and thereby make the definition more consistent with the full range of requirements provided in Appendix A. EPA amended the definition of "reclaim" in the related Industrial Recycling Guide (IRG)-2 final rule (68 FR 43786), by adopting the 1995 version of the ARI Standard 700. Today's action makes no further amendment to the definition of "reclaim."

8. Refrigerant

In the NPRM, EPA proposed to add a definition of "refrigerant" that would include any class I or class II substance used for heat transfer purposes or any substance used as a substitute for such a class I or class II substance by any user in a given end-use, except: Ammonia in commercial or industrial process refrigeration or in absorption units; hydrocarbons in industrial process refrigeration (processing of hydrocarbons); chlorine in industrial process refrigeration (processing of chlorine and chlorine compounds); carbon dioxide in any application; nitrogen in any application; or water in any application. As discussed above, EPA proposed to interpret "appliance" to exclude secondary loops that move heat from warmer to cooler areas using a fluid that does not change state. EPA also requested comment on the Agency's proposal to add a restriction to the definition of "refrigerant" to the same effect, ensuring consistency between the interpretation of "appliance" and the definition of "refrigerant."

Several commenters stated that the proposed definition of refrigerant was too broad. Commenters stated that the definition should not encompass substances that are not actually used as refrigerants, such as air, water or brine used in secondary loops. One commenter suggested that the Agency revise the definition of refrigerant to clarify that the recycling rule does not apply to systems that provide heat. The commenter expressed concern that the definition of refrigerant contained the phrase "for heat transfer purposes," and stated that although heat transfer can cool a system, it can also warm a system and provide heating, and in these cases the substance is not being used as a refrigerant. The commenter noted that in the CAA, Congress always used words related to cooling when referring to refrigeration and never intended to regulate heating. Similarly, a number of commenters supported defining refrigerant in terms of phase change and to exclude secondary loops that do not involve change of state in order to ensure that substances that are not actually used as refrigerants are not encompassed in the definition.

With today's rule EPA is defining "refrigerant" as follows: "*Refrigerant* means, for purposes of this Subpart, any substance consisting in part or whole of a class I or class II ozone-depleting substance that is used for heat transfer purposes and provides a cooling effect, or any substance used as a substitute for such a class I or class II substance by any user in a given end-use, except for the following substitutes in the following end-uses: (1) Ammonia in commercial or industrial process refrigeration or in absorption units; (2) Hydrocarbons in industrial process refrigeration (processing of hydrocarbons); (3) Chlorine in industrial process refrigeration (processing of chlorine and chlorine compounds); (4) Carbon dioxide in any application; (5) Nitrogen in any application; or (6) Water in any application." This definition also excludes air from the definition of refrigerant.

EPA has defined "refrigerant" to simplify the text of the regulations. The definition permits EPA to refer to covered class I, class II, and substitute refrigerants without having to reiterate a list of either included or excepted refrigerants each time. EPA believes that this definition appropriately defines "refrigerant" for purposes of section 608, and has revised the proposed definition of "refrigerant" by adding the phrase "that provide a cooling effect" to make certain that the definition does not capture substances that provide for heat transfer but do not provide a cooling effect. This definition removes any ambiguity for substances that may provide a cooling effect but are not considered refrigerants under section 608. The Agency does not intend the definition to either expand or diminish the scope of the section 608 requirements, and believes that the definition is consistent with EPA's past interpretations of the term "refrigerant."

In the past, EPA has interpreted "refrigerants" to include the class I and class II fluids in traditional vapor-compression systems, such as refrigerators, air-conditioners, and heat pumps, as well as the class I and class II fluids in heat transfer systems that lack compressors, such as electrical transformers. At the same time, the Agency has not considered substances whose use as refrigerants have been denied under SNAP (such as hydrocarbons outside of industrial

process refrigeration), to fall under the definition of "refrigerant." EPA has adopted this interpretation based on both technical and common definitions of "refrigerant." The Agency believes that the definition addresses the ODSs and substitutes covered by the technical and common definitions of refrigerant. Therefore, the Agency has not added the phrase "including a change of state" to the definition of refrigerant.

9. Substitute

In the NPRM, EPA proposed to define "substitute" as any chemical or product substitute, whether existing or new, that is used by any person as a replacement for a class I or II ODS in a given end-use. Several commenters objected to classifying a substance as a substitute refrigerant, when in a specific refrigeration system the substance has not replaced any class I or class II ODS refrigerant as a second generation substitute.[8]

If the Agency were to take this approach, a substitute would be regulated only if the equipment owner/operator previously used the substance as a direct replacement for a class I or class II substance (for example, during the retrofit of an appliance from HCFC to an HFC blend), and an identical substitute refrigerant used by a different entity would not be regulated if it were a replacement for a non-ODS refrigerant (regardless of the generation of the substitute). EPA believes that a lack of regulatory conformity among substitute refrigerants, regardless of generation class, would not reduce emissions of substitute refrigerants, would lead to confusion within the regulated community, and would make enforcement difficult. For the purposes of section 608, EPA considers a refrigerant a substitute in a certain end-use, if the substance has SNAP approval as a substitute for CFC or HCFC refrigerants in that end-use by any user. This holds even if the SNAP-approved substitute is being used in a new appliance, and previously has never been used by the owner/operator of the appliance. Under section 608, EPA considers a SNAP-approved refrigerant a "substitute" for CFC or HCFC refrigerants under section 608 if any of the following is the case: (1) The substitute refrigerant immediately replaced a CFC or HCFC in a specific instance, (2) the substitute refrigerant replaced another substitute that replaced a CFC or HCFC in a specific instance (*i.e.*, it was a second-or later-generation substitute), or (3) the substitute refrigerant has always been used in a particular instance, but other users in that end-use have used it to replace a CFC or HCFC.

EPA does not believe that it is appropriate under section 608 to consider the intent or history of an individual user in determining whether a refrigerant is a "substitute" for CFC or HCFC refrigerants in a given instance. First, it is reasonable to interpret "substitute" to include first, second-or later generation substitutes for CFCs and HCFCs. One of the goals of this rulemaking is to minimize any environmental harm that might be associated with the transition away from CFC and HCFC refrigerants. In many cases, the transition away from CFCs and HCFCs is a multi-step process, with substitutes supplanting each other as they are tested and developed. Thus, even if a substance is not being used as a direct or first generation substitute for CFC or HCFC refrigerants in a particular instance, its use is the result of the transition away from CFCs and HCFCs and the substance serves as a substitute for these substances.

Second, it is also reasonable to interpret "substitute" to mean a refrigerant that is occasionally used as a substitute for CFC or HCFC refrigerants in a given end-use, even if the refrigerant has a history of use by a particular user or in a particular end-use. EPA's authority to promulgate enforceable regulations would be impeded if the Agency had to attempt to trace the individual histories of specific appliances in implementing and enforcing the section 608 regulations.

Several commenters expressed concern that a refrigerant could become a substitute without notice or rulemaking. One scenario was described as a first-generation refrigerant used in an industrial process by one user becoming a regulated substitute by its use as a replacement for a class I or class II refrigerant by another unrelated user.

This scenario is covered by the third leak repair scenario discussed in the NPRM (63 FR 32070) by which EPA would consider a refrigerant a "substitute" for CFCs or HCFCs under section 608. A legally used first-generation refrigerant used as a substitute by any end-user is already authorized under section 612 of the Act. Appropriate notice via rulemaking under SNAP would have taken place prior to the substitute's use in the specific end-use sector. On March 18, 1994, EPA published a final rule (59 FR 13044), that described the process for administering SNAP and issued EPA's first acceptability lists for substitutes in the major industrial use sectors, including refrigeration and air-conditioning. Anyone who produces a substitute must notify the Agency at least 90 days before introducing it into interstate commerce for use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or end-users when they are responsible for introducing a substitute into commerce. Therefore, in the commenter's scenario proper notice would have been granted for any approved substitute. Formulators or end-users concerned about the status of their refrigerant need to verify the refrigerant's acceptability under SNAP. Such verification can be made by checking the EPA Web page *(www.epa.gov/ozone)* or contacting the Ozone Hotline (800–296–1996) for a complete listing of SNAP determinations.

One commenter believed that the proposed rule contradicts the Agency's final rule addressing the reporting requirements for substitutes under the SNAP (March 18, 1994, 59 FR 13044). In that rule, the Agency determined that second-generation replacements, if they are non-ozone depleting and are replacing non-ozone-depleting first-generation alternatives, are exempt from reporting requirements under section 612 of the Act.

The SNAP final rule does not grant an exemption from the venting prohibition established under 608(c) of the Act, and section 612 does not impose any reporting or recordkeeping requirements associated with the venting prohibition. Section 612 of the Act authorizes EPA to develop a program (*i.e.*, SNAP) for evaluating alternatives to ODSs, whereas section 608 of the Act authorizes EPA to write regulations reducing emissions of class I and class II refrigerants and their substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.

EPA is defining "substitute" as any chemical or product, whether existing or new, that is used by any person as an EPA-approved replacement for a class I or II ozone-depleting substance in a given refrigeration or air-conditioning end-use. As discussed above, this definition is similar to the definition of "substitute" used in the SNAP rule, but it omits the proviso that a substitute be "*intended* for use as a replacement for a class I or class II substance." Thus, it includes substances that may not have been used to replace class I or class II substances in a given instance, but are

[8] By second generation substitute the Agency means a substance being used as a replacement refrigerant for a substitute refrigerant, where the substitute refrigerant was an original SNAP-approved replacement for a class I or II refrigerant (*i.e.*, a first generation substitute).

used to replace class I or class II substances in other instances of that end-use. This definition of substitute differs from the proposed definition (63 FR 32059) in that the word "compound" has been replaced with "substance" in order to bring the definition of substitute into conformity with the original intent of the proposed rule.

10. Technician

In the NPRM, EPA proposed to amend the definition of "technician" to include persons who perform maintenance, service, repair, or disposal that could be reasonably expected to release class I, class II, or substitute refrigerants from appliances into the atmosphere. One commenter opposed expanding the definition of technician to include those disposing of appliances, unless the Agency properly distinguishes between recycling and disposal.

EPA did not intend for the proposed definition of technician to alter the exclusion of those disposing of MVACs or small appliances from the definition of technician. However, EPA believes that persons disposing of appliances that have not been evacuated, in accordance with § 82.156, pose a reasonable risk of releasing refrigerant. The Agency has determined (May 14, 1993, 58 FR 28660) that for purposes of subpart F, disposal means the process leading to and including: (1) The discharge, deposit, dumping or placing of any discarded appliance into or on any land or water; (2) the disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water; or (3) the disassembly of any appliance for reuse of its component parts. Therefore, any person who performs any of these activities (whether they consider themselves a recycler, scrap dealer, or disposer, etc.) is not exempt from the required practices codified at § 82.156.

Two commenters asked that the Agency clarify its definition of technician with respect to "do-it-yourselfers" (DIYers), and clarify that process operators in industrial settings are not considered technicians.

EPA's amended definition of "technician" includes any person (including DIYers or process operators) who performs maintenance, service, or repair, that could be reasonably expected to release refrigerants from appliances into the atmosphere. Technician also means any person who performs disposal of appliances—except for small appliances, MVACs, and MVAC-like appliances—that could be reasonably expected to release refrigerants from the appliances into the atmosphere. Performing maintenance, service, repair, or disposal could be reasonably expected to release refrigerants only if the activity is reasonably expected to violate the integrity of the refrigerant circuit. Activities reasonably expected to violate the integrity of the refrigerant circuit include, but are not limited to, activities such as: Pressure checks by attaching and detaching gauges to and from the appliance, attaching or detaching hoses, or adding refrigerant to and removing refrigerant from the appliance. Activities such as painting the appliance, rewiring an external electrical circuit, replacing insulation on a length of pipe, or tightening nuts and bolts on the appliance are not reasonably expected to violate the integrity of the refrigerant circuit. Performing maintenance, service, repair, or disposal of appliances that have been evacuated in accordance with § 82.156 could not be reasonably expected to release refrigerants from the appliance unless the maintenance, service, or repair consists of adding refrigerant to the appliance. Technician includes but is not limited to installers, contractor employees, in-house service personnel, and in some cases owners and/or operators.

11. Very High-Pressure Appliance

EPA did not receive any negative comments concerning the proposed definition of "very high-pressure appliance" to refer to saturation pressures at 104 °F rather than boiling points.

Since 104 °F is above the critical temperatures [9] of many very high-pressure refrigerants (meaning that there is no "saturation pressure" in the usual sense for those refrigerants at that temperature), EPA is also adding the phrase "or with a critical temperature below 104 degrees Fahrenheit" to the definition. The final definition reads as follows: "Very high-pressure appliance means an appliance that uses a refrigerant with a critical temperature below 104 °F or with a liquid phase saturation pressure above 355 psia at 104 °F. This definition includes but is not limited to appliances using R–13 and R–503."

D. Required Practices

In the NPRM, EPA proposed to require persons servicing or disposing of air-conditioning and refrigeration equipment that contain HFC or PFC refrigerants to observe certain service practices that minimize emissions of these refrigerants that are very similar to those required for the servicing or disposal of CFC and HCFC equipment. The most fundamental of these practices is the requirement to recover HFC and PFC refrigerants rather than vent them to the atmosphere. As noted above, the knowing venting of substitutes for class I and class II refrigerants (except those exempted by the Administrator) during maintenance, service, repair or disposal is expressly prohibited by section 608(c)(1) and (2) of the Act, as of November 15, 1995. In order to implement section 608(c)(2) more effectively, EPA proposed not only to define "good faith attempts to recapture and recycle or safely dispose," but also more directly to require compliance with the proposed provisions for substitute refrigerants regarding evacuation of equipment, use of certified equipment, and technician certification in any instance where a person is opening or disposing of an appliance, as defined in § 82.152.

EPA is not finalizing the proposed required practices for the handling and use of pure HFC and PFC refrigerant substitutes. However, since EPA is not determining that the release of HFC or PFC refrigerants does not pose a threat to the environment, it remains illegal to knowingly vent these substitutes during the maintenance, service, repair, or disposal of appliances. This finding means that efforts to prevent venting such as the proper use of refrigerant recovery equipment are necessary when maintaining, servicing, repairing, or disposing of appliances.

1. Evacuation of Appliances

EPA is not finalizing the proposed evacuation requirements for HFC and PFC appliances that are opened for maintenance, service, repair, or disposal to established levels that are the same as those for CFCs and HCFCs with similar saturation pressures. This action is consistent with EPA's decision to not regulate, under section 608, refrigerants that do not contain a class I or class II ODS. Similarly, EPA is not finalizing the option that would have permitted technicians to recover HFC or PFC refrigerants using equipment certified for use with multiple CFC or HCFC refrigerants of similar saturation pressures. EPA defers discussion of the certification of refrigerant recovery equipment to a future rulemaking.

In today's action, EPA is clarifying that evacuation requirements are applicable to substitute refrigerants that consist, in whole or in part, of a class I or class II ODS. Additionally, evacuation requirements are not

[9] Critical temperature is the temperature above which a gas cannot be liquefied by an increase of pressure.

applicable to substitutes that have been exempted by today's action namely, ammonia in commercial or industrial process refrigeration or in absorption units; hydrocarbons in industrial process refrigeration; chlorine in industrial process refrigeration; carbon dioxide in any application; nitrogen in any application; water in any application; or air in any application.

EPA is classifying refrigerants according to their saturation pressures at 104 °F, because many of the refrigerants that have entered the market over the past few years pose two difficulties for the existing system based on boiling points. First, many of the new HFC/HCFC blends do not have precise boiling points. Instead, these refrigerants exhibit "glide," (*i.e.*, boiling and condensing over a range of temperatures at a given pressure). Second, refrigerants' boiling points have served as a surrogate for their saturation pressures at higher temperatures, but the relationship between boiling point and saturation pressure is not as consistent for the new refrigerants as it is for traditional CFCs and HCFCs. For instance, a lower boiling point has generally indicated a higher saturation pressure at a given temperature, but that is not consistently the case with many substitute refrigerants. The new approach avoids these difficulties, because it links evacuation requirements directly to the refrigerant saturation pressure at a temperature similar to that at which recovery typically takes place.

a. Evacuation Requirements for Appliances Other Than Small Appliances, MVACs, and MVAC-like Appliances

EPA is not finalizing the proposed extension of the evacuation requirements for appliances (other than small appliances, MVACs, and MVAC-like appliances) containing HFC or PFC refrigerants. However, EPA is amending the system for classifying appliances and clarifying how the evacuation requirements apply to appliances containing substitute refrigerants that consist, in whole or in part, of a class I or class II ODS.

Table I lists the required levels of evacuation for air-conditioning and refrigeration equipment, other than small appliances, MVACs, and MVAC-like appliances. EPA is clarifying that the required evacuation levels apply to refrigerant substitutes that have a class I or class II ODS component (for example, HFC refrigerant blends that contain an HCFC). EPA has amended the table to reflect definition changes for medium-pressure and high-pressure appliances, formerly referred to as high-pressure and higher-pressure appliances respectively. The proposed changes concerning evacuation requirements for appliances containing substitutes with ODS components are captured and finalized by inclusion of the new definitions for medium-, high-, and very high-pressure appliances in Table 1, which were previously classified according to their boiling points at atmospheric pressure.

TABLE 1.—REQUIRED LEVELS OF EVACUATION FOR APPLIANCES

[Except for small appliances, MVACs, and MVAC-like appliances]

Type of appliance	Inches of Hg vacuum (relative to standard atmospheric pressure of 29.9 inches Hg)	
	Using recovery or recycling equipment manufactured or imported before November 15, 1993	Using recovery or recycling equipment manufactured or imported on or after November 15, 1993
Very high-pressure appliance	0	0
High-pressure appliance, or isolated component of such appliance, normally containing less than 200 pounds of refrigerant	0	0
High-pressure appliance, or isolated component of such appliance, normally containing 200 pounds or more of refrigerant	4	10
Medium-pressure appliance, or isolated component of such appliance, normally containing less than 200 pounds of refrigerant	4	10
Medium-pressure appliance, or isolated component of such appliance, normally containing 200 pounds or more of refrigerant	4	15
Low-pressure appliance	25	25 mm Hg absolute

The evacuation requirements in Table 1 are very similar to those that have been in place for appliances containing single component CFC and HCFC refrigerants. The evacuation requirements for CFC and HCFC appliances were based largely, but not entirely, on their saturation pressures. Appliances were classified according to their refrigerant's boiling point at atmospheric pressure, which is generally inversely related to its saturation pressures at higher temperatures. Successively deeper vacuums have been required for lower pressure appliances.

EPA has adopted this approach because the saturation pressure of a refrigerant is directly related both to the percentage of refrigerant that is recovered at a given vacuum level and to the compression ratio that is necessary to achieve that vacuum.[10] A comparison between R–502, which has a saturation pressure of 245 psia at 104 °F, and R–11, which has a saturation pressure of 25.3 psia at 104 °F, makes this clear. At an evacuation level of 10 inches of mercury vacuum and an ambient temperature of 104°F, 96 percent of R–502 refrigerant vapor has been recovered, but only 61 percent of R–11 refrigerant vapor has been recovered. For R–502, the compression ratio necessary to achieve this vacuum is about 25 to 1, but for R–11 the compression ratio necessary is only about one tenth of that, 2.6 to 1. Most recovery compressors have a compression ratio limit of between 20 and 30 to 1, meaning that it is difficult to achieve an evacuation level much lower than 10 inches of vacuum for R–502, but that it is easy to achieve a lower evacuation level for R–11. Thus, a refrigerant's saturation pressure directly

[10] The saturation pressure of a refrigerant is the same as its vapor pressure, that is, the characteristic pressure of the vapor in a vapor/liquid mixture of that refrigerant at equilibrium at a given temperature. A compression ratio is the ratio of the pressures of a gas on the discharge and suction sides of the compressor.

affects both the technical feasibility and the environmental impact of a given evacuation level.

i. Low-Pressure Appliance Category

EPA is finalizing the proposal to define low-pressure appliances as those using refrigerants with a liquid phase saturation pressure below 45 psia at 104 °F. Evacuation requirements for the low-pressure category apply to these appliances. This category includes but is not limited to appliances using R–113, R–123, and R–11.

ii. Medium-Pressure and High-Pressure (Proposed as High- and Higher-Pressure) Appliance Categories

In the NPRM, EPA sought comment on the proposal to use a saturation pressure of 45 psia as the lower-bound saturation pressure for high-pressure appliances. EPA also sought comment on the proposal to eliminate the special category for R–22 and to replace it with a new saturation pressure category that includes the "high-pressure" refrigerants with the highest saturation pressures (those with boiling points approximately between −40 and −50 °C and saturation pressures between 220 psia and 305 psia at 104 °F). EPA proposed to designate this as the "higher-pressure appliances." EPA also sought comment on the establishment of the "higher-pressure appliance" saturation pressure category. EPA specifically sought comment on the proposed use of 305 psia as the upper bound saturation pressure for this new category, and whether R–502 was appropriate for this category.

EPA received supportive comments on the establishment of the upper bound saturation pressure for the "high-pressure" saturation pressure category. The pressures to which R–22 appliances must be evacuated (and therefore to which "high-pressure" appliances would have to be evacuated) are 0 inches of vacuum (atmospheric pressure) for appliances containing less than 200 pounds of refrigerant, and 10 inches of vacuum (9.8 psia) for appliances containing more than 200 pounds of refrigerant.

EPA received one comment supporting the inclusion of R–502 (which has a relatively low discharge temperature) in the higher pressure category. The commenter stated that the real-world compression ratio would be lower than the theoretical 30:1 ratio, because the actual condensing conditions during recovery should typically be lower than 104 °F.

EPA has attempted to select bracketing saturation pressures for appliance categories so as to maintain as much consistency as possible with the previous categories based on boiling points. For instance, since the current definition of "medium-pressure appliances" (previously referred to as high-pressure appliances) includes R–114 appliances at the low-pressure end, and the saturation pressure of R–114 at 104 °F is slightly above 45 psia, EPA is implementing a saturation pressure of 45 psia as the lower-bound saturation pressure for medium-pressure appliances.

EPA has altered the classification scheme by eliminating the special category for R–22 and replacing it with a new saturation pressure category that includes the "high-pressure" refrigerants with saturation pressures between 170 psia and 355 psia at 104 °F). EPA designates this as the "high-pressure" refrigerants category. This change enables EPA to tailor requirements to refrigerants with relatively high saturation pressures, while retaining the previous evacuation requirements for appliances using R–22 refrigerant, as stated in Table 1. The new category includes but is not limited to appliances using R–401A, R–409A, R–401B, R–411A, R–22, R–411B, R–502, R–402B, R–408A, R–402A. For several of these refrigerants, the combination of a relatively high saturation pressure and high discharge temperature makes recovery into a deep vacuum difficult. On the other hand, these refrigerants have significantly lower saturation pressures than still higher pressure refrigerants, such as R–13 and R–503 (whose critical temperatures fall below 104 °F).

iii. Very High-Pressure Appliance Category

In the NPRM, EPA proposed to modify the definition of very high-pressure appliances to add the phrase "or whose critical temperatures fall below 104 °F. EPA also sought comment on the proposal to classify refrigerants based upon saturation pressures at 104 °F rather than boiling points

As proposed, EPA has modified the definition of very high-pressure appliances to add the phrase "or whose critical temperatures fall below 104 °F." This modification has been made to address the classification of appliances using very high-pressure refrigerants such as R–13, R–23, and R–503. These refrigerants do not have a saturation pressure in the traditional sense at 104 °F because this temperature is above their critical temperatures. As noted above, the saturation pressure of a refrigerant is the pressure of the vapor in a vapor/liquid mixture, but refrigerants above their critical temperatures cannot exist in a liquid state regardless of the pressure.

b. Evacuation Levels for Small Appliances

EPA is not finalizing the proposal to establish the same evacuation requirements for servicing small appliances charged with HFC and PFC refrigerants as it has for small appliances charged with CFC and HCFC refrigerants. However, EPA is finalizing these evacuation requirements for SNAP-approved substitute refrigerants that contain a class I or class II ODS.

Technicians opening small appliances for service, maintenance, or repair are required to use equipment certified either under Appendices B or B1, or under Appendix C, Method for Testing Recovery Devices for Use with Small Appliances, to recover the refrigerant, and must pull a four-inch vacuum on the small appliance being evacuated.

Equipment certified under Appendix C must capture 90 percent of the refrigerant in the appliance if the compressor is operating, and 80 percent of the refrigerant if the compressor is not operating. Because the percentage of refrigerant mass recovered is very difficult to measure on any given job, technicians must adhere to the servicing procedure certified for that recovery system, under Appendix C, to ensure that they achieve the required recovery efficiencies.

c. Evacuation Levels for Disposal of MVACs, MVAC-like Appliances, and Small Appliances

EPA had proposed to establish the same evacuation requirements for disposal of small appliances, MVACs, and MVAC-like appliances that are charged with HFC refrigerants as it has for these types of appliances charged with CFC and HCFC refrigerants.

EPA received comments generally supporting the evacuation requirements for disposal of small appliances, MVACs, and MVAC-like appliances, but one commenter argued that the responsibility for removing remaining refrigerants from appliances destined for disposal or for recycling should be placed on the person disposing of the appliance or delivering the appliance for recycling as opposed to the person recycling the obsolete appliance.

Sections 608(b)(1) and 608(c)(2) require that class I and class II refrigerants or their substitute refrigerants, that are contained in bulk in appliances be removed from the appliance prior to its disposal or delivery for recycling. The Agency does not interpret this statutory language to mean that scrap metal recyclers who

choose to dispose of appliances or choose to accept appliances (or their parts) with refrigerant charges intact are exempt from the Required Practices codified at § 82.156 (including the acquisition of recovery equipment that meets the standards set forth in § 82.158). Therefore, persons who take the final step in the disposal process of small appliances, MVACs, and MVAC-like appliances must either recover any remaining refrigerant in the appliance or verify that the refrigerant has previously been recovered from the appliance or shipment of appliances.

EPA is not establishing the same evacuation requirements for disposal of small appliances, MVACs, and MVAC-like appliances that are charged with HFC refrigerants as it has for these types of appliances charged with CFC or HCFC refrigerants. However, EPA is finalizing these evacuation requirements for such appliances that use a substitute refrigerant consisting, in part, of a class I or class II substance (for example, an HFC refrigerant blend that contains an HCFC). Such MVACs and MVAC-like appliances must be evacuated to 102 mm (approximately four inches) of mercury vacuum, and 80 or 90 percent of the refrigerant in small appliances must be recovered (depending on whether or not the compressor is operating) or the small appliance must be evacuated to four inches of mercury vacuum. Although EPA is not finalizing the proposed evacuation requirements, it remains illegal to knowingly vent HFC refrigerants during the service, maintenance, repair, or disposal of small, MVAC, and MVAC-like appliances.

d. Request for Comment on Establishing Special Evacuation Requirements for Heat Transfer Appliances

As noted in the NPRM, EPA received comments from a manufacturer of PFCs stating that special evacuation requirements may be appropriate for certain types of heat transfer appliances containing PFCs, such as some types of electrical transformers. The commenter specifically noted that evacuating some types of heat transfer systems may result in damage to those systems, that in many cases, parts to be repaired may be isolated from the refrigerant charge, and that many repairs may be performed quickly, releasing little refrigerant even if the system is not evacuated.

EPA received no comments in response to its request for comment on the need for special evacuation requirements for heat transfer appliances, and EPA is not establishing evacuation requirements for any appliance using pure PFCs.

e. Clarifications of Evacuation Requirements

In the NPRM, EPA proposed two clarifications to the evacuation requirements based on a previous request to the Agency. Specifically, the first request for clarification concerned whether a part of the appliance that is not a separate tank may be considered a "system receiver," in which the system charge may be isolated while another isolated part of the appliance is opened for repairs. The second request for clarification concerned whether an isolated portion of an appliance that already meets the required level of evacuation due to normal operating characteristics may be opened for repairs without further evacuation. In addition to minor changes to the regulatory language to respond to the first and second requests, EPA proposed to add language to paragraph § 82.156(a) to clarify that, except in the case of non-major repairs to low-pressure appliances, liquid refrigerant must be removed from appliances (or from the isolated parts to be serviced) before they are opened to the atmosphere.

EPA received one comment suggesting the use of the term "storage vessel" in situations where the system receiver is used as a storage vessel and can be isolated from the rest of the system.

The required practices at § 82.156 require that all persons opening appliances except for MVACs and MVAC-like appliances for maintenance, service, or repair evacuate the refrigerant, including all the liquid refrigerant in either the entire unit or the part to be serviced (if the latter can be isolated) to a system receiver (*e.g.*, the remaining portions of the appliance, or a specific vessel within the appliance) or a recovery or recycling machine certified pursuant to § 82.158. If the system receiver also serves as a storage vessel, then the required practice is satisfied.

As proposed, EPA is today clarifying that for purposes of complying with § 82.156(a), EPA interprets the term "system receiver" to include a part of the appliance that is not a separate tank, if that portion of the appliance can be isolated from the portion of the appliance that is opened for repairs. From an environmental perspective, EPA believes that the critical consideration is whether the part of the appliance to be opened to the atmosphere for repair has had the refrigerant removed and isolated from it, not the configuration of the remaining appliance parts within which the refrigerant is isolated. To clarify this point, EPA is amending paragraph § 82.156(a) by adding the following examples after the term "system receiver": "(*e.g.*, the remaining portions of the appliance, or a specific vessel within the appliance)."

In addition to clarifying its interpretation of "system receiver," as proposed, EPA is adding language to § 82.156(a) to ensure that the regulations clearly preclude a possible misinterpretation of these requirements. EPA has always interpreted § 82.156(a) to require that, except in the case of non-major repairs to low-pressure appliances, liquid refrigerant must be removed from appliances (or from the isolated parts to be serviced) before they are opened to the atmosphere. Currently, § 82.156(a) reads (in part) "all persons disposing of appliances * * * must evacuate the refrigerant in the entire unit to a recovery/recycling machine certified pursuant to § 82.158. All persons opening appliances * * * must evacuate the refrigerant in either the entire unit or the part to be serviced (if the latter can be isolated) to a system receiver or a recovery or recycling equipment certified pursuant to § 82.158." Paragraphs 82.156(a)(1) through (5) specify pressures to which the appliances must be evacuated.

It has come to EPA's attention that it may be possible in some cases to briefly attain the required evacuation levels specified in paragraphs 82.156(a)(1) through (5) while there is still liquid refrigerant in the appliance or in the isolated part to be serviced. In general, if vapor is removed from a mixture of liquid and vapor refrigerant at equilibrium, thus reducing the vapor pressure, the liquid will boil until the equilibrium between the vapor and liquid states is restored, returning the vapor pressure to the saturation pressure of the refrigerant. However, heat must flow into the system from the environment for this to occur, and such heat flow takes time. Thus, if an individual quickly recovers vapor from an appliance, permitting no time for the liquid to boil to return the vapor pressure to the equilibrium value, the pressure specified in § 82.156(a) may be attained, albeit only temporarily. If the individual opens the appliance at this point, a great deal of refrigerant will be released to the environment. This is because the density of liquid refrigerant is typically one to two orders of magnitude greater than that of vapor refrigerant, meaning that a large mass of refrigerant may be concentrated in a relatively small volume of liquid, and the liquid will continue to boil off into the atmosphere as long as the appliance is opened.

EPA believes that the use of the phrase "evacuate the refrigerant" in § 82.156(a), as well as the language in § 82.154(a)(the prohibition on venting), already clearly indicates that liquid refrigerant must be removed from the appliance or isolated part before it is opened for servicing. Otherwise, a significant portion of the refrigerant will not be evacuated to a recovery device, a good faith effort to recover and recycle refrigerant will not be made, and releases to the environment would not be considered a *de minimis* release.

One commenter stated that it may not be possible to remove all liquid refrigerant as a part of the required evacuation prior to opening a refrigeration system. The commenter asserted that due to the complexity and uniqueness of some large refrigeration systems, it may be impossible to determine if all liquid refrigerant has been removed from the entire system prior to opening. The commenter added that determination may become even more difficult for substitute refrigerants that remain in the liquid phase at or near ambient temperature and pressure.

The Agency continues to believe that these clarifications in § 82.156(a) are appropriate as proposed. The intent of the wording change to the required practices is to make certain that refrigerant will be evacuated to a recovery device prior to opening an appliance. In order to eliminate any possible ambiguity on this point, the Agency is adding the phrase, "including all the liquid refrigerant," after the phrase, "the refrigerant," in both places where it occurs in § 82.156(a). To ensure that the modified language does not implicitly override § 82.156(a)(2)(i)(B), which provides that recovery of liquid is not required in cases of non-major repairs to low-pressure appliances, EPA is also adding the parenthetical phrase "(except as provided at § 82.156(a)(2)(i)(B))" to the second occurrence of "including all liquid refrigerant."

In response to the second request for clarification, EPA believes that if a part of an appliance already meets the required level of evacuation due to normal operating characteristics, it may be isolated and opened for service, maintenance, or repair without further evacuation, so long as liquid refrigerant is not present in the isolated part. Again, the purpose of the requirement to evacuate under § 82.156(a) is to minimize refrigerant emissions from the part. If the required level of evacuation has been met, and no liquid is present in the isolated part, only *de minimis* quantities of refrigerant will be released when the part is opened to the atmosphere. Therefore, this situation meets the requirements to evacuate under § 82.156(a).

The third point of clarification concerns verification of evacuation by certified technicians. EPA received a comment requesting clarification concerning verification of evacuation requirements by certified technicians. A commenter stated that the reference to "technicians" should be singular not plural. EPA certainly believes that verification by a single technician is sufficient. Accordingly, section 82.156(a) is modified to state that a certified technician must verify that the applicable level of evacuation has been reached in the appliance or the part before it is opened.

2. Extension of the Refrigerant Standard to Substitute Refrigerants

In the NPRM, EPA proposed to establish refrigerant standards for new and used HFC and PFC refrigerants that were very similar to those for CFCs and HCFCs. In addition, the Agency proposed to update its requirements for all refrigerants to reflect the ARI Standard 700–1995, Specifications for Fluorocarbon and Other Refrigerants, which includes standards for a number of refrigerants that were not addressed by the previously codified standard, ARI Standard 700–1993. EPA also requested comment on adoption of a generic standard for those refrigerants that are not covered by ARI Standard 700–1995.

In a previous rulemaking (July 24, 2003, 68 FR 43786), commonly referred to as the IRG–2, EPA adopted, with modification, the ARI Standard 700–1995 along with the standard's analytical protocol (*i.e.*, Appendix C to ARI Standard 700–1995) into Appendix A of § 82, subpart F. While the IRG–2 rulemaking adopted the ARI Standard 700–1995, it included a modification in that the rule did not adopt standards for refrigerants that were not included in the originally adopted ARI Standard 700–1993, namely HFC refrigerants and blends thereof.

a. Updates to the Refrigerant Standard

In the NPRM, EPA proposed to adopt ARI 700–1995, that includes standards for a number of refrigerants that were not addressed by the previously codified standard, ARI 700–1993. These refrigerants include R–404A, R–405A, R–406A, R–407A, B, and C, R–408A, R–409A, R–410A and B, R–411A and B, R–412A, R–507, R–508 and R–509. The proposed changes to the standard included: (1) The adoption of a single analysis (for each blend) for determining both the composition of each refrigerant blend and its level of contamination by organic impurities, and (2) the standardization of the wide range of equipment, techniques, and calculations used in the methods for determining the composition of refrigerant blends.

The NPRM also proposed changes to the referenced protocol in Section 5.1 Referee Test (63 FR 32095), which specifically references Appendix C to ARI Standard 700–95–Analytical Procedures for ARI Standard 700–95. In addition, the ARI Standard 700's analytical protocol was originally included into regulation by reference into Appendix A of § 82, subpart F (based on ARI Standard 700–1993), as *Section 5. Sampling, Summary of Test Methods and Maximum Permissible Contaminant Levels* (May 14, 1993; 58 FR 28660). The protocol established definitive test procedures for determining the quality of new, reclaimed and/or repackaged refrigerants for use in new and existing refrigeration and air-conditioning equipment. Proposed changes to Appendix C to ARI Standard 700–95 included:

- The addition of test methods for determining the composition of the zeotropic refrigerant blend families R–404, R–407, R–408, R–409, and R–410, and of the azeotropic refrigerant blends R–507 and R–508—These additions enable laboratories to verify that the blends contain the appropriate percentages of their component materials.
- The addition of a gravimetric test as an alternate method for determining high-boiling residues. This method is considered to be more accurate than the previously adopted volumetric method. This addition permits laboratories with the appropriate facilities and expertise to perform more precise measurements of high-boiling residues than are permitted by the volumetric method. The volumetric method is retained as an alternate in ARI 700–95, because it is adequately precise for most applications, and is less expensive to perform than the gravimetric method.
- Finally, several typographic and wording changes were made to improve the clarity of the standard.

EPA believes that these changes will make the reclamation requirements more enforceable while decreasing the burden of industry to prove conformance.

EPA received several comments concerning the requirements for substitute HFC and PFC refrigerants. However, EPA is not finalizing refrigerant standards for HFC or PFC refrigerants that do not contain an ODS. Refrigerants that were previously adopted into Appendix A, based on ARI

Standard 700–1993 that do not consist in part or whole of a listed class I or class II ozone-depleting chemicals will not be included in the new appendix, namely R–23; R–32; R–125; R–134a; and R–143a.

Today's action includes substitute refrigerants consisting of a class I or class II ODS into Appendix A (based on the ARI Standard 700–1995), that were omitted from the IRG–2 rulemaking (July 24, 2003, 68 FR 43786) because they were either pure HFC refrigerants or blends of HFC refrigerants. While ARI Standard 700–1995 includes standards for a number of refrigerants that were not addressed by the previously codified standard, ARI Standard 700–1993, EPA is only adopting refrigerant standards for those substitute refrigerants listed in ARI Standard 700–1995 that consist in part or whole of an ODS, namely R–11; R–12; R–13; R–22; R–113; R–114; R–123; R–124; R–401A and B; R–402A and B; R–405A; R–406A; R–408A; R–409A; R–411A and B; R–412A; R–500; R–502; R–503; and R–509.

b. Generic Specification Standards for Refrigerants

Despite EPA's recent adoption of the ARI Standard 700–1995, the Agency's refrigerant standards are likely to be rendered incomplete by the rapid development and introduction of new refrigerants into the market. Although EPA will consider specification requirements along with recycling requirements for each new refrigerant as it undergoes SNAP review, there is likely to be a delay between the introduction of new refrigerants and SNAP approval of new refrigerants. EPA feels that it is premature to adopt specific specification standards for refrigerants prior to their acceptance for specific end-uses under SNAP. To address this issue, EPA proposed to establish a generic refrigerant standard for refrigerant substitutes for which standards have not yet been codified into Appendix A of 40 CFR 82, subpart F.

EPA received comment that the proposed generic specifications failed to include a specification for either organic impurities or for blend balance. EPA notes that specifications for organic impurities are included in the "Other Impurities Including Refrigerant" column and are limited to 0.50% by weight. EPA is establishing that the allowable blend composition of reclaimed refrigerant must be maintained to ±2.0% for blend components greater than or equal to 25%; ±1.0% for blend components less than 25% but greater than or equal to 10%; ±0.50% for blend components less than 10%. This means that for refrigerant blends that must meet the generic specifications, each blend component must be maintained at the aforementioned levels in order to be considered reclaimed. For example, assume that the hypothetical azeotropic blend R–500x has a nominal composition of a, b, and c at 8%, 13%, and 79% respectively, where any component consists of an ODS. The reclaimed blend R–500x must have a composition that falls within the following ranges: component a: 7.5% to 8.5%; component b: 12% to 14%; and component c: 77% to 81%.

EPA received favorable comments and requests to include the generic maximum contaminant level (based on ARI Standard 700–1995) for refrigerants that have SNAP approval but have not been included into ARI Standard 700. One commenter expressed concern that the ARI Standard 700 would act as regulation (instead of EPA adopting the standard as Appendix A), and possibly allow the use of refrigerants that have not been approved for specific end-uses under SNAP.

EPA is aware that instances may occur where refrigerants have been listed as approved for specific end-uses under SNAP, but have not been noted in the ARI Standard 700. Conversely, refrigerants may not have SNAP approval for a particular refrigeration end-use, but may be included in the ARI Standard 700. EPA has made efforts throughout this action to clarify that Appendix A to 40 CFR 82 subpart F is the Federal regulation that governs specifications for refrigerants. While this appendix is based on ARI Standard 700, the ARI standard is not in itself a regulation. This point is essential as EPA determines specifications for SNAP-approved refrigerants, so that mandatory specifications are not created for substitute refrigerants that have either been found unacceptable for specific end-uses or have not been addressed under SNAP.

Reclamation requires not only that refrigerant be processed to the refrigerant specifications in Appendix A, but also that it be analyzed to verify that it meets the specifications. Therefore, a "generic refrigerant specification" should be matched by a generic analytical protocol. General analytical procedures exist to determine the levels of acidity, water, high-boiling residue, chloride, and noncondensable gases in refrigerants; these procedures are detailed in parts 1 through 5 of Appendix C to ARI Standard 700–1995. However, individual gas chromatography procedures are required for each refrigerant in order to determine the overall purity of that refrigerant. This is because each refrigerant has its own gas chromatogram (profile) and characteristic impurities (other than acid, water, high-boiling residue, chloride, and noncondensable gases). EPA understands that the need to develop gas chromatography procedures is what frequently slows the adoption of reclamation procedures for new refrigerants. Thus, EPA believes that it is useful to have generic specifications for new refrigerants and analytical protocols for acid, water, high-boiling residues, chloride, and noncondensable gases for these refrigerants in the absence of specific gas chromatography procedures.

Thus, the proposed generic specifications are applicable for all SNAP-approved refrigerants, consisting in whole or in part of an ODS, for which specification standards have not yet been included in Appendix A. EPA is establishing and including as Appendix A1 the following generic maximum contaminant levels for refrigerants and specific composition standards for SNAP-approved refrigerant blends awaiting inclusion into Appendix A:

GENERIC MAXIMUM CONTAMINANT LEVELS

Contaminant	Reporting units
Air and Other Non-condensables.	1.5% by volume @ 25°C (N/A for refrigerants used in low-pressure appliances*).
Water	10 ppm by weight; 20 ppm by weight (for refrigerants used in low-pressure appliances*).
Other Impurities Including Refrigerant.	0.50% by weight.
High boiling residue	0.01% by volume.
Particulates/solids	visually clean to pass.
Acidity	1.0 ppm by weight.
Chlorides (chloride level for pass/fail is 3 ppm).	No visible turbidity.

*Low-pressure appliances means an appliance that uses a refrigerant with a liquid phase saturation pressure below 45 psia at 104 °F.

BLEND COMPOSITIONS

[Where applicable]

Nominal composition (by weight%)	Allowable composition (by weight%)
Component constitutes 25% or more	± 2.0

BLEND COMPOSITIONS—Continued

[Where applicable]

Nominal composition (by weight%)	Allowable composition (by weight%)
Component constitutes less than 25% but greater than 10%	± 1.0
Component constitutes less than or equal to 10%	± 0.5

EPA also received comment that the process for reclaiming blended refrigerant back to original specifications at a reclamation facility is a technically simple operation, which is hampered by the refrigerant manufacturers' refusal to sell any amount of the individual blend components to a reclaimer not affiliated with the manufacturer. The manufacturers, however, argued that reclaimers who return fractionated refrigerants to specification would be guilty of patent infringement. The commenter believed that the patent in this case has already been served on the fractionated refrigerant and returning this refrigerant to specification constitutes repair of broken material. The commenter requested that part of the final rule include a requirement for refrigerant manufacturers to make components of refrigerant blends available to reclamation facilities at a fair market price.

EPA declines to address these issues in this final rule. EPA did not propose to require refrigerant manufacturers to make components of refrigerant blends available to reclamation facilities. Therefore, EPA will not now impose such a requirement in this final rule. Moreover, EPA views this as, essentially, a commercial dispute that is not appropriately addressed in the context of EPA's regulations.

c. Application of the Refrigerant Standard to Virgin and Used Refrigerants

EPA believes that the vast majority of new refrigerant sold meets the ARI Standard 700–1995, and that chemical manufacturers have led the way in assuring that new refrigerants meet the specifications of the Standard. However, the Agency understands that used or contaminated refrigerant has been marketed and/or sold as "new," which could result in equipment failure and subsequent venting of ozone-depleting refrigerants. In order to ensure that the Agency can prevent the sale of contaminated refrigerant that is labeled as "new," EPA is clarifying that all refrigerants must meet the specifications of Appendix A, based on the ARI Standard 700–1995, regardless of how they are marketed. EPA received favorable comments on this requirement, which cited the need to have all refrigerants meet the refrigerant specifications regardless of origin.

Commenters stated that manufacturers of virgin refrigerants have previously established operating procedures to meet the refrigerant standard, and have consistently verified the results using the protocol established under ARI Standard 700. Therefore, EPA believes that this requirement will not place additional burden on the refrigerant manufacturing industry, since the industry would have continued to follow ARI Standard 700 in the absence of this regulatory clarification.

d. Possession and Transfer of Used Refrigerant

The Agency received a comment from an EPA-certified refrigerant reclaimer requesting clarification as to what entities, other than reclaimers, can take possession of used product and what reporting is required of them once they take possession.

EPA regulations prohibit the sale of any used refrigerant, with the exceptions of refrigerant used and intended for use in MVAC or MVAC-like appliances, unless it has been reclaimed by an EPA-certified reclaimer (§ 82.154(g)). Therefore, it would be a violation of this prohibition for any person (including wholesalers, service companies, and brokers) to sell the material (*i.e.*, used refrigerant) for use as a refrigerant to a new owner.

Since used refrigerant that is sold to an EPA-certified reclaimer does not equate to sale of used refrigerant to a new owner, such sale is legal. Therefore, EPA finds that persons such as wholesalers, service companies, and brokers are allowed to collect used refrigerant for the purpose of selling bulk quantities to certified reclaimers. This interpretation reduces emissions by granting flexibility to appliance owners who cannot afford the burden of storing small quantities of used refrigerant, while allowing other entities to transfer ownership of the used refrigerant to certified reclaimers. Without this flexibility, some appliance owners might have an incentive to vent refrigerant instead of bearing the costs of storing used refrigerant or shipping small quantities of refrigerant to reclaimers. This transfer of ownership is not deemed a violation of § 82.154(g) since the material is not intended for use as a refrigerant, but as used material for purposes of reclamation. Conversely, it would be a violation of this section for any person to sell the material as a refrigerant, unless it has first been reclaimed by an EPA-certified reclaimer.

3. Leak Repair

In the NPRM, EPA proposed to lower the permissible leak rates for some air-conditioning and refrigeration equipment containing more than 50 pounds of CFC or HCFC refrigerant, and to extend the leak repair requirements (as they would be amended) to air-conditioning and refrigeration equipment containing more than 50 pounds of HFC or PFC refrigerant. Specifically, EPA proposed to lower the permissible annual leak rate for new commercial refrigeration equipment from 35 to 10 percent of the charge per year, the permissible annual leak rate for older commercial refrigeration equipment from 35 to 15 percent per year; the permissible annual leak rate for some industrial process refrigeration equipment from 35 to 20 percent of the charge per year; the permissible annual leak rate for other new appliances (*e.g.*, comfort cooling chillers) from 15 to 5 percent of the charge per year; and the permissible annual leak rate for other existing appliances (*e.g.*, comfort cooling chillers) from 15 to 10 percent of the charge per year.

EPA has decided to defer action on the leak repair components of the NPRM to a future rulemaking dedicated to finalizing the proposed leak repair requirements.

4. Servicing MVAC and MVAC-like Appliances Containing Substitute Refrigerants

a. Background

MVAC-like appliances are open-drive compressor appliances used to cool the driver's or passenger's compartment of non-road motor vehicles, such as agricultural or construction vehicles. MVAC-like appliances are essentially identical to motor vehicle air conditioners, which are subject to regulations promulgated under section 609 of the Act, but because MVAC-like appliances are contained in non-road vehicles, they are subject to regulations promulgated under section 608 of the Act.

Due to the similarities between MVACs and MVAC-like appliances in design and servicing patterns, EPA has established requirements regarding the servicing of MVAC-like appliances that are very similar to those for MVACs (58 FR 28686). In fact, many of the section 608 requirements for MVAC-like appliances that are published at subpart F simply refer to the section 609 requirements for MVACs that are

published at subpart B. For instance, § 82.156(a)(5) states that persons who open MVAC-like appliances for maintenance, service, or repair may do so only while "properly using," as defined at § 82.32(e), recycling or recovery equipment certified pursuant to § 82.158(f) or (g) as applicable. The definition of "properly using" appears in the regulations published at subpart B, and the reference therefore subjects MVAC-like appliances to the evacuation and refrigerant standard requirements of subpart B. Similarly, the equipment and technician certification provisions applicable to MVAC-like appliances in subpart F (§ 82.158(f) and § 82.161(a)(5)) refer to the equipment and technician certification provisions applicable to MVACs in subpart B (§ 82.36(a) and § 82.40).

The section 609 and 608 regulations treat MVACs and MVAC-like appliances (and persons servicing them) slightly differently in four areas. First, persons who service MVACs are subject to the section 609 equipment and technician certification requirements only if they perform "service for consideration," meaning that they are financially or otherwise compensated for their services. Persons who service MVAC-like appliances are subject to the section 608 equipment and technician certification requirements regardless of whether they are compensated for their work.[11] Second, persons who service MVACs must have recovery and recycling equipment available at their place of business, even if they never open the refrigeration circuit of the MVACs. In contrast, persons who service MVAC-like appliances are required to have recovery and recycling equipment available at their place of business only if they open the appliances (*i.e.*, perform work that would release refrigerant to the environment unless the refrigerant were recovered previously). Third, recycling and recovery equipment that is intended for use with MVACs and that was manufactured before the effective date of the section 609 equipment certification provisions must be demonstrated to be "substantially identical" to certified recycling equipment. While refrigerant recycling and recovery equipment manufactured before the effective date of the section 608 equipment and intended for use with MVAC-like appliances must be able to pull a 4-inch vacuum. Finally, persons servicing MVAC-like appliances have the option of becoming certified as Type II technicians under subpart F (*i.e.*, section 608) instead of becoming certified as MVAC technicians under subpart B (*i.e.*, section 609). The first three differences arise from differences between the statutory requirements of sections 608 and 609; the last is intended to give persons who service MVAC-like appliances flexibility in choosing the type of training and testing most appropriate for their work.

[11] Note that persons servicing MVACs are subject to the section 608 venting prohibition regardless of whether they are compensated for their work.

b. Amendments to Subpart B

In a final rule published on December 30, 1997 (62 FR 68025), EPA made several changes to the provisions governing servicing of MVACs and MVAC-like appliances (as they are currently defined) at subpart B. First, EPA extended the regulations to MVACs containing substitutes for CFC and HCFC refrigerants. Second, EPA explicitly allowed mobile servicing of MVACs and MVAC-like appliances. That is, technicians are permitted to transport their recovery/recycling equipment from their place of business in order to recover refrigerant from an MVAC or MVAC-like appliance before servicing it. Third, EPA permitted refrigerant recovered from disposed MVACs or MVAC-like appliances to be reused in MVACs or MVAC-like appliances without reclamation, as long as the refrigerant was processed through approved refrigerant recycling equipment before being charged into the MVAC to be serviced. Fourth, EPA adopted new standards for recycling and recovery equipment intended for use with MVACs. These new standards address HFC–134a recovery/recycling equipment, HFC–134a recover-only equipment, service procedures for HFC–134a containment, standards for recycled HFC–134a, recovery/recycling equipment intended for use with both CFC–12 and HFC–134a, and recover-only equipment designed to be used with any motor vehicle refrigerants other than CFC–12 and HFC–134a. Please refer to the December 30, 1997, final rule for a detailed explanation and justification of these changes for MVACs.

These regulations apply both to MVACs containing all SNAP-approved substitutes and to MVAC-like appliances containing class I and class II substances. As discussed at length in the final amendment to subpart B, EPA believes that it is appropriate to cover both MVACs and MVAC-like appliances under the subpart B regulations, although EPA is relying on section 608 authority to address refrigerant venting during the maintenance, service, repair, and disposal of MVAC-like appliances. In brief, the rationale for this approach is that (1) MVACs and MVAC-like appliance are very similar, and the requirements for MVAC-like appliances under the subpart F regulations have historically referred back to the requirements for MVACs under subpart B, and (2) MVACs and MVAC-like appliances are often serviced by the same group of people, and therefore publishing the requirements for both MVACs and MVAC-like appliances in the same place will minimize confusion within this group. Under this approach, most of the provisions governing MVAC-like appliances have been reproduced in the regulations at subpart B and will be removed from the regulations at subpart F; an important exception is the definition of MVAC-like appliance, which will remain in the regulations at subpart F. Thus, the final subpart B rule covers MVAC-like appliances as defined in the subpart F regulations, which at the time of the final subpart B rule was promulgated, meant MVAC-like appliances containing CFCs or HCFCs. However, the subpart B amendment did not affect the four differences between the treatment of MVACs and MVAC-like appliances identified above.

c. Amendments Concerning MVAC and MVAC-like Appliances Containing Substitute Refrigerants

As proposed and discussed previously, EPA has changed the definitions of "appliance" and "opening" in subpart F to include substitute refrigerants. EPA is also establishing required practices for "MVAC-like appliance" (which is based on the definition of "appliance"). This effectively applies the major requirements of the amended subpart B regulations to MVAC-like appliances containing substitutes for CFCs and HCFCs that consist of a class I or class II ODS. However today's final rule does not affect the section 609 service requirements for MVACs using HFC–134a (R–134a). Today's final rule does establish that the regulatory structure in place for class I and class II ODSs used as refrigerants in MVACs will only apply to substitutes consisting of a class I or class II ODS. EPA has also made editorial changes to eliminate redundancy between the subpart B and subpart F rules in their treatment of MVAC-like appliances.

EPA believes that in order to implement the venting prohibition, it is necessary to apply the major subpart B requirements (including the requirements to properly use recycling and recovery equipment and to certify recycling and recovery equipment and technicians) to MVAC-like appliances

containing substitute refrigerants. In the case of MVAC-like appliances, the similarities in design and servicing patterns between MVACs and MVAC-like appliances make it appropriate to subject MVAC-like appliances to the required practices and certification programs established for MVACs in subpart B rather than to the required practices and certification programs established for stationary appliances in subpart F. As noted above, the argument for parallel coverage of MVACs and MVAC-like appliances was discussed at length in the May 14, 1993, rule (58 FR 28686).

d. Clarification of Applicability-Servicing of Buses Using HCFC–22

EPA has become aware of a growing misinterpretation of how the Agency classifies buses using HCFC–22 refrigerant (R–22), and how technicians servicing buses using R–22 should be certified. The definition of MVAC-like appliance at § 82.152 specifically states that appliances using R–22 are not covered under the definition of MVAC-like. Similarly, the definition of MVAC at § 82.32 specifically states that it does not cover air-conditioning systems found on passenger buses using HCFC–22 refrigerant.

Section 82.152 defines high-pressure appliance as an appliance that uses a refrigerant with a liquid phase saturation pressure between 170 psia and 355 psia at 104 °F, including R–22. EPA has established under § 82.161(a)(2) that technicians who maintain, service, or repair high-pressure appliances must be certified as a section 608 type II technician. Hence taking the definition of high-pressure appliance into consideration, EPA finds that technicians servicing buses using R–22 must be certified according to section 608 not 609. EPA inspections at transit facilities typically have found that technicians have credentials that allow the servicing of buses using R–12, as well as buses using R–22 (*i.e.*, that are certified under section 609 and section 608 type II, respectively). But, EPA has received an increasing number of inquiries concerning this issue. Therefore, EPA is providing clarification in this final rule to assist the regulated community.

E. Refrigerant Recovery/Recycling Equipment Certification

In the NPRM, EPA proposed to require that equipment used to service appliances containing HFCs and PFCs be tested by an EPA-approved laboratory to the same standards as apply to equipment used to service appliances containing class I and class II refrigerants. This proposal was based on the more recent ARI Standard 740–1998, which adopts more substitute refrigerants into the standard than the 1995 version.

EPA has decided to address the proposed certification of refrigerant recovery/recycling equipment intended for use with substitute refrigerants in a future action.

F. Technician Certification

In the NPRM, EPA proposed to extend the certification requirements for technicians who work with CFC and HCFC refrigerants to technicians who work with HFCs and PFCs. EPA also proposed to "grandfather" technicians who have been certified to work with CFCs and HCFCs by not requiring them to be retested in order to work with HFC or PFC appliances.

Commenters generally supported EPA's decision to not require additional training and testing in order to work with and purchase HFC and PFC refrigerants, as opposed to any requirement to once again certify credentialed technicians. EPA received numerous comments from members of the MVAC service sector expressing the need for fairness and consistency in applying rule provisions to all potentially environmentally damaging refrigerants. Comments from air-conditioning and refrigeration contractors voiced the opinion that the imposition of less stringent recovery or certification requirements for HFC refrigerants could undermine compliance with recycling requirements for both HFC and ozone-depleting refrigerants by confusing technicians and encouraging a "cavalier" attitude toward refrigerant recovery. The majority of commenters believed that failure to impose a technician certification requirement on persons working with HFCs and PFCs would lead to release and mixture of both ozone-depleting refrigerants and their substitutes.

Commenters contesting the certification requirement stated several reasons to justify their opposition. They believe that economics and the value of refrigerants promote recovery and recycling, not an EPA mandate to certify technicians. They also contested the Agency's belief that certification will reduce venting or cross-contamination by providing technicians with information about effective and efficient recycling. These commenters stated that the technician certification requirement does not address the intent of persons, certified or not, who are predetermined to knowingly vent refrigerant, because technicians have routinely vented R–12 despite being certified, and preferred the option of educating technicians at the point of purchase via instructions and warnings instead of mandating further certification requirements.

With today's action, EPA is not requiring certification of technicians who work exclusively with HFC and PFC refrigerants that do not consist of a class I or class II ODS. However the Agency is clarifying that certification is required in order to maintain, service, or repair appliances, as well as to dispose appliances (other than small appliances, MVACs, and MVAC-like appliances) containing a substitute consisting of a class I or class II ODS. As discussed below, technician certification will also be required in order to purchase substitute refrigerants that contain a class I or class II ODS.

EPA believes that this action is necessary to effectively implement and enforce both section 608(c) and section 608(a)(2) of the Act. As discussed above, section 608(c) prohibits the knowing release of substitute refrigerants during the service, maintenance, repair or disposal of appliances, except for *de minimis* releases associated with "good faith attempts to recapture and recycle or safely dispose" of these refrigerants. It is reasonable to interpret "good faith attempts to recapture and recycle or safely dispose" as requiring that only certified technicians perform service, maintenance, repair, or disposal that could release ozone-depleting refrigerants and/or ozone-depleting substitute refrigerants. This interpretation is also consistent with EPA's interpretation of the same statutory language as it applies to ozone-depleting refrigerants.

It is the Agency's belief that persons who are not certified technicians are far more likely to intentionally or inadvertently release refrigerant contrary to the venting prohibition, and that consistent application of technician certification requirements is necessary to implement the section 608(a) directive to reduce releases and maximize recapture and recycling of class I and II refrigerants. Requiring certification of technicians who work with substitute refrigerants that consist of a class I or class II ODS is also necessary to comply with the section 608(a) requirements for EPA to promulgate regulations that reduce emissions of class I and II refrigerants to the lowest achievable levels and maximize recapture and recycling of such substances. In fact, due to the absence of a certification requirement and their consequent lack of adequate training, they might be unaware of the existence or scope of the restrictions.

Thus, they might fail to recover refrigerants properly or may not recover them at all. Technician certification requirements for work with substitute refrigerants consisting of a class I or class II ODS will directly reduce emissions of substitutes containing an ODS and protect against refrigerant mixture and cross contamination, which otherwise would cause more substantial releases of class I and II refrigerants for the following reasons.

First, technician certification ensures that technicians are trained in refrigerant recovery requirements and techniques and are knowledgeable of EPA refrigerant handling practices. Before EPA adopted the technician certification requirements, technicians in many sectors were not recovering refrigerants at all, and technicians who did recover were not necessarily minimizing emissions as much as possible. Thus, many technicians lacked expertise that they would need to comply with the recycling and recovery provisions, and needed training to acquire that expertise. While some vocational schools and training programs addressed refrigerant recovery, participation in such programs was low. Given this situation, EPA was concerned that without a testing or training requirement, recovery and recycling would often not occur at all or would be performed improperly. This would lead not only to refrigerant release, but to refrigerant contamination, safety concerns, productivity losses, and equipment damage. EPA discussed at length the benefits of training and certification in the final rule published on May 14, 1993 (58 FR 28691–94), and in the Regulatory Impact Analysis (RIA) performed for that rule (6–34 through 6–39).

While EPA understands that a person who is unconcerned about the venting of refrigerant may illegally do so whether or not they are certified, the Agency believes that requiring technicians to demonstrate knowledge of standard practices and regulations via a technician certification requirement is the most effective means of reducing refrigerant emissions. There is a direct correlation between information exchange to technicians and the technician certification requirement. Agency approved technician certifying programs tend to offer training programs, directly linked to the section 608 exam, covering proper handling and recovery techniques. Information from the EPA Ozone Hotline reflects the fact that technicians seeking certification often request information about programs that also offer combined course work and study materials. In addition, EPA mandates that section 608 certifying programs test technicians' proficiency and understanding of the environmental impacts of venting, refrigeration regulations, refrigerant leak detection, recovery techniques, safety, and safe disposal of refrigerants. Mandatory certification also enhances EPA's ability to enforce today's rule by providing another tool for use against intentional noncompliance (*i.e.*, the Agency's ability to revoke the technician's certification).

Secondly, in addition to possessing training in refrigerant recovery, certified individuals are more likely than uncertified individuals to have access to recovery equipment because they will have a heightened awareness, as proven by their passing grade for the certification exam, of the requirement to recover refrigerant prior to opening an appliance. EPA requires that persons maintaining, servicing, repairing, or disposing of air-conditioning and refrigeration appliances certify to the appropriate EPA Regional Office that they have acquired (built, bought, or leased) recovery/recycling equipment.

While EPA believes that the value of refrigerant independently promotes recycling and reclamation, nonetheless, this incentive can be and often is overridden by ignorance and/or defiance of regulations via a lack of access or use of recycling/recovery equipment. The requirement for technician certification will enhance the effect of the economic incentive provided by the value of refrigerant by ensuring that persons working with refrigerant have the information and equipment necessary to reach that economic potential.

For the reasons cited above, EPA believes that it is necessary to clarify and extend the technician certification requirement in order to implement section 608(a), and that EPA has authority under this section to promulgate a technician certification requirement. Therefore, EPA is extending the certification requirements for technicians who work with CFC and HCFC appliances to technicians who work with appliances containing substitute refrigerants that consist whole or in part of a class I or class II ODS.

EPA is not requiring previously certified technicians who have been certified to work with CFC and HCFC appliances to undertake additional training or testing in order to service substitutes containing an ODS. This decision is based on EPA's understanding that techniques and requirements for recycling substitute refrigerants are very similar to those for CFCs and HCFCs. Differences, such as compatibility with different lubricants, have been highlighted by the recycling/reclamation equipment certification program, and are being reinforced by recycling and recovery equipment manufacturers. EPA believes that more recent information on proper handling of substitutes has been and will continue to be disseminated to previously certified technicians, refrigerant manufacturers and distributors, recovery equipment manufacturers, industry associations, and the trade press. Moreover, the requirements for handling substitutes adopted in this rule are in most cases identical to the requirements for handling CFC and HCFC refrigerants.

In addition to EPA's outreach efforts, the normal chain of information dissemination within the refrigeration and air-conditioning community should quickly alert certified technicians of EPA's adoption of new specific standards for substitute refrigerants. Accordingly, technicians that are already certified will be knowledgeable about the requirements for recapture and recovery, the potential damages associated with improper mixture of refrigerants and the existence of comprehensive requirements for refrigerant handling. Thus, the benefits of any new certification requirement affecting previously certified technicians would probably be small and would likely be outweighed by the burden of such certification.

New technicians entering the field (*i.e.*, technicians certified after the effective date of this final rule) will have to become certified in order to maintain, service, or repair appliances using CFC, HCFC, and substitute refrigerants consisting of a class I or class II ODS. As part of its next update of the technician certification question bank, EPA will include questions on handling such substitute refrigerants and potential environmental damages associated with the illegal release of substitute refrigerants.

G. Refrigerant Sales Restriction

1. Background

In accordance with the regulations promulgated under sections 608 and 609, only certified technicians may purchase CFC and HCFC refrigerants. Effective November 14, 1994, the sales restriction covers any class I or class II substance used as a refrigerant. Thus, the restriction covers ozone-depleting refrigerants contained in bulk containers (cans, cylinders, or drums) and pre-charged parts of split-systems.[12] The

[12] Effective January 27, 1995, the restriction on sale of pre-charged split systems has been stayed

restriction excludes refrigerant contained in appliances, such as household refrigerators, window air conditioners, and packaged air conditioners. In addition, the restriction does not apply to class I or class II substances that are not used as refrigerants in appliances, such as those used as solvents or sterilizing agents.

In a previous rulemaking (July 24, 2003; 68 FR 43786), EPA amended the refrigerant sales restriction by amending § 82.154(m), and further restricted the sale or distribution or the offer for sale or distribution of class I and class II substances used as refrigerants that are suitable for use in MVACs, to technicians certified by a program approved under § 82.40 and certified in accordance with § 82.34 (*i.e.*, section 609 certified technicians). In accordance with § 82.34(b), this modification limits refrigerant purchases, by such section 609 technicians, to R–12 and substitute refrigerants containing a class I or class II ODS that is listed as acceptable for use in MVACs, in accordance with all regulations promulgated under section 612 of the Act. Furthermore, only technicians certified under section 609 are allowed to purchase such ozone-depleting refrigerants in containers containing less than 20 pounds of such refrigerant, in accordance with § 82.34(b).

Employers of certified technicians, or the employers' authorized representatives are also allowed to purchase refrigerant without being certified themselves. This provision of the sales restriction is allowed only if the employer provides the wholesaler with evidence that he or she employs at least one certified technician. The term "employers" includes, but is not limited to, appliance owners or operators who have a contract with a certified technician or employ service personnel to perform installation or service and manufacturers of air-conditioning and refrigeration equipment.

2. Extension of the Refrigerant Sales Restriction to Substitute Refrigerants

EPA proposed to extend the refrigerant sales restriction to HFC and PFC refrigerants in all size containers for use in all types of appliances, including HFC refrigerants suitable for use in MVACs. This effort was proposed to address the issue of venting of refrigerants from MVACs and more specifically the venting of refrigerants resulting from cross contamination as a result of retrofitting MVAC from R–12 to R–134a. While R–134a is an HFC refrigerant that does not contribute to stratospheric ozone depletion, it dominates the MVAC market for original manufactured equipment and retrofitted R–12 motor vehicles.

EPA received comments both opposed and in favor of such a restriction, specifically as it would apply to the sale of R–134a. EPA received comments from the aftermarket automotive parts industry stating that cross contamination is not a concern for MVACs using R–134a, and thus a sales restriction would not have an effect on venting reduction in the automobile sector. The commenters stated that the Agency's assumption that DIYers are likely to damage their MVACs by cross-contamination is invalid. The commenters in opposition to the sales restriction also described any attempt to reduce cross contamination via a sales restriction on R–134a as "too late," since the majority of R–12 vehicles have already been retrofitted.

During the comment period for this rule EPA received approximately 90 comments from automobile service representatives stating their assertion that the unrestricted sale of R–134a contributes to the problem of cross contamination of motor vehicle air-conditioning refrigeration systems by untrained individuals. The commenters claimed that DIYer retrofits of existing R–12 and R–134a systems are often conducted improperly, leading to contamination of entire systems which causes the repair industry to suffer from this contamination long after the repair of the improper retrofit is complete. The commenters also stated that the automotive service industry has invested in training and equipment to prevent the venting of refrigerant and that those same efforts should be undertaken by anyone who handles refrigerant in the course of serving or repairing a motor vehicle air conditioner.

Commenters in opposition to the proposed sales restriction stated that the sales restriction provides an unfair economic benefit to the automotive refrigerant servicing industry by compelling all MVAC service to be performed in automotive repair shops. They noted that all persons who might be expected to release refrigerant in the course of maintaining, servicing, or disposing of appliances should invest in recovery and recycling equipment. Comments from MVAC service technicians claimed that many shops repair damage to MVACs caused as a result of improper retrofits where class I refrigerants have already been vented to the atmosphere. Commenters pointed out that repair shops invest in recovery and recycling machines that the general public cannot access.

In today's action, EPA is not finalizing the proposed restriction on the sale of HFC or PFC refrigerants to certified technicians. EPA believes that an extended sales restriction enforces the technician certification requirements of both the refrigerant recycling regulations promulgated under section 608 and those promulgated under section 609 and ultimately implement the requirements of sections 608(a) and 608(c)(2). As discussed below, EPA has determined that the environmental benefit is not sufficient to mandate such a sales restriction for HFC and PFC refrigerants. However, the Agency is extending the sales restriction to those substitutes that contain a class I or class II substance. This will restrict the sale of most HFC refrigerant blends to certified technicians.

EPA has decided that a more expansive sales restriction on HFC and PFC refrigerants would not have the desired impact of reducing class I and class II refrigerant emissions for a number of reasons. First, appliances used in the stationary sector use an array of class I, class II, and substitute refrigerants. Although R–410A appears to be the current substitute of choice in the stationary air-conditioning sector, HCFC refrigerants currently dominate the stationary market and will continue to do so in the foreseeable future. Therefore, the overwhelming majority of stationary technicians will not work solely on appliances using HFC or PFC refrigerants. Secondly, for the stationary sector the sales of class I or II refrigerants are already restricted to certified technicians and these technicians must be certified in order to work on appliances containing CFC and HCFC refrigerants.

Similarly, mobile sector technicians certified under section 609 of the Act who repair or service MVACs for consideration are already required to be certified by an EPA-approved organization (§ 82.34(a)). The sale of class I or II ODS refrigerants suitable for use in an MVAC in a container containing less than 20 pounds of refrigerant is restricted under section 609 (§ 82.34(b)) to 609 certified technicians and the sales of class I or II refrigerants in other size containers is restricted to section 608 certified technicians (§ 82.154(m)). Therefore, the effect of the technician certification and sales restriction on the mobile sector is identical to the effect of the proposed certification and extended sales restriction. That effect is the achievement of an overall reduction in the emissions of refrigerants by ensuring

while EPA reconsiders this provision of the sales restriction.

that technicians are aware of the environmental consequences of illegal venting, refrigeration regulations, and proper use of recovery/recycling equipment.

In the absence of a requirement for all persons who open appliances to obtain and properly use EPA-certified recovery/recycling equipment, there is no means to ensure compliance with the venting prohibition. The remaining population affected by this rulemaking consists of the MVAC do-it-yourself (DIY) market. This category consists of automobile owners who choose to service their own MVACs and are not servicing or repairing MVACs for consideration. The sales of class I or II refrigerants to this group are limited to those DIYers who have been certified under section 609. While an extended sales restriction would limit the amount of illegal venting of refrigerants by persons who are not maintaining, servicing, or repairing MVACs for compensation (for example DIYers) by limiting the number of people legally able to purchase refrigerant, it would not address the issue of access to certified refrigerant recycle/recovery equipment. Although it is illegal to knowingly vent refrigerants, DIYers are the only segment of the regulated community for which EPA regulations do not explicitly require the proper use of certified recycle/recovery equipment. EPA believes that any effort to open an appliance prior to recovering the refrigerant would constitute a violation of the venting prohibition, and the only means for the DIYer to be in compliance with the venting prohibition is by using recovery equipment as a means of preventing venting during service, maintenance, and repair.

3. Consideration of Alternative Methods of Emissions Reduction

As discussed in the proposal, EPA considered and sought public comments on a number of alternatives to an extended sales restriction on HFC and PFC refrigerants. EPA considered many alternatives to address the problem of cross contamination of refrigerants in the mobile air-conditioning sector which leads to the venting of class I or class II refrigerants. This venting occurs due to appliance or recovery/recycling equipment failure that results from contamination and refrigerant compatibility conflicts and the financial disincentive to destroy severely contaminated refrigerants that have been recovered from MVACs. Cross contamination is of particular interest in the MVAC service sector where mixtures of R–12 and R–134a, and to a lesser degree the illegal use of hydrocarbon refrigerants as a substitute for R–12, have become commonplace and the use of refrigerant identifiers and recovery equipment specified for use with unknown refrigerants has become common.

a. Unique Fittings

In the NPRM, EPA proposed as one alternative method for preventing mixture of ozone-depleting and HFC refrigerants a requirement that both HFC containers and HFC appliances be equipped with unique fittings that would prevent them from being connected to CFC or HCFC containers and appliances. Under SNAP, substitute refrigerant containers sold for use in the automotive market are required to be equipped with such fittings.

Several commenters stated that the requirement for unique fittings in the automotive sector is sufficient to reduce the emissions of ozone-depleting refrigerants. Thus, an extended sales restriction would not be necessary. Commenters pointed out that the adoption of unique fittings on containers and compressors by industry has greatly reduced cross-contamination, and there is no practical reason that precludes the design of fitting for refrigerants in the stationary sector.

EPA has not overlooked the benefits of unique fitting or their effectiveness in reducing cross-contamination, but the Agency feels that implementing unique fittings into the stationary sector would be impractical and would not necessarily reduce the venting of the CFC or HCFC to be replaced. EPA believes that introducing a unique fittings requirement into the vast array of stationary sector appliances and refrigerant containers would be impractical for several reasons. The most fundamental reason is that the wide array of substitute refrigerants available for stationary equipment makes the development of a unique fitting for each one almost impossible. At least 25 refrigerants are currently being used in the stationary air-conditioning and refrigeration sectors, and more are being developed. Unique fittings are designed by choosing the diameter, turning direction, thread pitch (threads/inch) and shape of threads (normal *vs.* square, also known as Acme). However, fittings with the same diameter and turning direction can nearly always be connected using a wrench, regardless of thread pitch or shape. Therefore, the number of different fittings is limited to double the number of different diameters, since each diameter yields both a clockwise and a counterclockwise fitting. The number of diameters is itself limited because fittings must differ by at least 0.063 inches in diameter to ensure they will not cross-connect, and the range of diameters is limited by valve core and surrounding space restrictions.[13] Thus, the number of unique fittings that can be developed is limited.

Moreover, even if unique fittings could be found for each of the refrigerants used in the stationary sectors, the logistics of implementing them would be formidable. To begin with, a massive program would be required to retrofit existing stationary appliances and recovery equipment with all of the unique fittings. Retrofits would presumably be required not only for all stationary appliances that have been retrofitted to substitute refrigerants, but for all of the equipment that uses one of the four traditional medium-to high-pressure refrigerants (*i.e.*, R–12, R–22, R–502, and R–500). Otherwise, technicians who became accustomed to relying on fittings to distinguish among refrigerants might cross-contaminate these refrigerants as well.

In addition, the large number of fittings in the stationary sectors would make their use as a control on contamination unwieldy. A single piece of recovery equipment intended for use with medium-pressure refrigerants might conceivably require more than 20 fittings. Given the similar exterior appearances of the fittings, finding the one that matched a particular appliance would be difficult. More important, this matching of fittings with appliances is not necessary if the recovery equipment has been properly cleared before use with a new refrigerant. Technicians who work on stationary air-conditioning and refrigeration equipment have long worked with multiple refrigerants, and recovery/recycling equipment that has been designed for use with multiple refrigerants. Instead of engineering controls, the stationary sector has relied on training in refrigerant charging and recovery to prevent cross-contamination. Adopting unique fittings in these sectors would represent a fundamental change of approach that would be unwieldy.

b. Limited Sales Restriction

In the NPRM, EPA proposed a more limited sales restriction as a means to address the concerns of illegal venting of ozone-depleting refrigerants. The limited sales restriction would restrict

[13] In the MVAC market (to date), valve core and surrounding space restrictions have resulted in fittings ranging in diameter from 0.3 inches to 0.625 inches.

to certified technicians the sale of containers of substitute refrigerants that lack specialized fittings, but would permit the sale of containers of substitute refrigerants that contain such fittings to the general public. In this manner, DIY consumers and uncertified individuals would have unlimited access only to containers with fittings, making mixture and cross contamination more difficult.

EPA did not receive comments on the potential effectiveness and enforceability of such a limited sales restriction, but the overwhelming majority of commenters representing MVAC service shops recognized that a limited sales restriction would reduce the occurrences of illegal and uncontrolled venting of regulated refrigerants by limiting the supply of the refrigerant. These commenters supported the sales restriction and argued that if people do not have the proper recovery/recycling equipment, they should not be allowed to purchase and use HFC and PFC refrigerants.

EPA believes that a limited sales restriction reduces the opportunity for noncompliance with the venting prohibition. A limited sales restriction reduces the quantity of refrigerant available to persons who are not performing service or repair on MVACs for consideration. However, even a limited sales restriction does not address the need for persons opening MVACs to properly use recovery equipment. Hence, EPA is not finalizing a limited sales restriction, but is emphasizing that the use of refrigerant recovery equipment by any person opening an appliance, including DIYers, is a necessity in order to prevent venting of refrigerant during service, maintenance, repair, and disposal of appliances.

c. MVAC Retrofit Kits

EPA received comments questioning why the Agency has allowed the unrestricted sale of MVAC R–12/R–134a retrofit kits. While the sale of R–12 is restricted to certified technicians, retrofit kits allow any person certified or not to replace the R–12 in an MVAC with R–134a.

EPA did not propose any restrictions on the sale of R–12/R–134a MVAC retrofit kits. However, EPA believes that retrofit kits could be linked to the venting of ozone-depleting refrigerants, particularly when any remaining R–12 in the MVAC is not recovered prior to opening the appliance. In the absence of the proper use of recovery equipment, the user would have no alternative other than to knowingly vent any remaining refrigerant charge in violation of section 608(c)(1). It is the Agency's interpretation that the use of such kits without properly recovering any remaining refrigerant is a violation of the venting prohibition. While EPA is not extending the sales restriction to people servicing appliances using HFC or PFC refrigerants, at a future date the Agency may consider a proposal, amending § 82.34(a), requiring all persons repairing or servicing MVACs to use certified recovery equipment. Similarly, EPA could propose restrictions on the sale and use of R–12 retrofit kits.

H. Safe Disposal of Small Appliances, MVACs, and MVAC-like Appliances

1. Coverage of HFCs and PFCs

In the NPRM, EPA proposed and requested comment on its plan to adopt the same approach to the disposal of small appliances, MVACs and MVAC-like appliances charged with HFC and PFC refrigerants that it adopted for these types of equipment charged with CFC and HCFC refrigerants.

Commenters tended to agree with the Agency's decision to extend the safe disposal requirements for small appliances, MVACs, and MVAC-like appliances that contain substitutes for CFC and HCFC refrigerants, noting that it is important to reevaluate § 608 requirements in connection with new or other alternative uses of refrigerant substitutes. When refrigerant is recovered from disposed small appliances, MVAC or MVAC-like appliances, and for the case of MVAC and MVAC-like appliances is not reused in similar appliances, the safe disposal and reclamation requirements set forth in the subpart F regulations apply.

EPA received comment from the Institute of Scrap Recycling Industries, Inc. (ISRI) requesting Agency clarification for safe disposal of small appliances, MVACs and MVAC-like appliances by distinguishing between recycling and disposal. ISRI argued that the responsibility for removing remaining refrigerants from appliances destined for disposal or for recycling should be placed on the person disposing of the appliance or delivering the appliance for recycling and not upon the recycler of the obsolete appliance.

Section 608(b)(1) and 608(c)(2) require that class I, class II, and their substitute refrigerants contained in bulk in appliances be removed from the appliance prior to the disposal or their delivery for recycling. EPA's regulations at § 82.156(f) require that persons taking the final step in the disposal process must either (1) recover any remaining refrigerant from the appliance, in accordance with regulatory requirements, or, (2) verify that the refrigerant has been evacuated from the appliance previously. If the final person in the disposal chain chooses to verify that the refrigerant has been recovered previously, they must retain a signed statement attesting to this in accordance with § 82.166(i).

The rationale for establishing the safe disposal requirements for small appliances, MVACs, and MVAC-like appliances that contain CFCs and HCFCs was discussed at length in the May 14, 1993, rule (58 FR 28701). These requirements are designed to ensure that refrigerant is recovered before the appliance is finally disposed of while granting as much flexibility as possible to the disposal facility regarding the manner of its recovery. EPA considered such flexibility important for the disposal sector, which is highly diverse and decentralized.

EPA is not extending the established requirements for the safe disposal of appliances that enter the waste stream with the charge intact, including small appliances, MVACs, and MVAC-like appliances using class I and class II refrigerants to those appliances containing pure HFC and PFC refrigerants. However, EPA is extending the safe disposal requirements to those substitutes containing an ODS. Therefore, persons who take the final step in disposing of small appliances, MVAC, and MVAC-like appliances that contain a class I or class II substance as a refrigerant must either: (1) Recover any remaining refrigerant in the appliance; or (2) verify that the refrigerant has previously been recovered from the appliance or shipment of appliances, in accordance with the required practices of § 82.156(f)(1) and (2). Recovery equipment used during the disposal of appliances, except small, MVAC, or MVAC-like appliances, must meet the same certification requirements as equipment used in the service, repair, and maintenance of appliances in accordance with § 82.158(b) and (c).[14] In addition, persons recovering refrigerant during disposal of small, MVAC, or MVAC-like appliances need to do so in accordance with § 82.156(f)–(h), but they need not be certified as section 608 technicians. These exemptions only apply to the disposal of small, MVAC, and MVAC-like appliances.

[14] Equipment used during the disposal of small, MVAC, or MVAC-like appliances need not be certified in accordance with § 82.158(b) or (c).

2. Transfer of Substitute Refrigerants During the Safe Disposal of MVAC and MVAC-Like Appliances

In the December 30, 1997, amendments to the subpart B MVAC recycling regulation (62 FR 68025), EPA explicitly permitted refrigerant recovered from MVACs and MVAC-like appliances at disposal facilities to be reused in MVACs and MVAC-like appliances without being reclaimed. The transfer of such used refrigerant is allowed as long as certain other requirements are met. These requirements, which now also apply to any substitute consisting of a class I or class II ODS, including many HFC blends, deemed acceptable as substitutes for MVAC and MVAC-like appliances under SNAP, include the following: Only section 609-certified technicians or disposal facility owners or operators may recover the refrigerant; the refrigerant recovered from the MVACs and MVAC-like appliances may not be mixed with refrigerant from any other sources; only section 609-certified recovery equipment may be used to recover the refrigerant; the refrigerant may be reused only in an MVAC or MVAC-like appliance; the refrigerant may be sold only to section 609-certified technicians; and section 609-certified technicians must recycle the refrigerant in section 609-certified recycling equipment before charging it into the MVAC or MVAC-like appliance. As discussed in the amendments to the section 609 rule, these restrictions are intended to ensure that the exemption from the reclamation requirement for refrigerant removed from and charged into MVACs and MVAC-like appliances does not compromise the purity of refrigerant flowing into the MVAC and MVAC-like appliance service sectors.

Most of these restrictions are authorized by section 609, which requires persons servicing motor vehicles for consideration to properly use approved refrigerant recycling equipment and to be properly trained and certified. The statutory definitions of "properly use," "approved equipment," and "properly trained and certified" all reference Society of Automotive Engineers (SAE) standards that include purity requirements for refrigerant used to service MVACs.

These requirements for reuse of refrigerant, including substitutes consisting of a class I or class II ODS, from MVACs and MVAC-like appliances at disposal facilities apply in addition to the basic safe disposal requirements of the subpart F regulations under section 608, particularly the requirement that disposers recover the refrigerant (or ensure that the refrigerant is recovered by others) from the MVAC or MVAC-like appliance before the final step in the disposal process. Disposal facilities must also continue to observe the requirement that they retain signed statements attesting to the removal of the refrigerant from the MVAC or MVAC-like appliance, as applicable.

3. Clarification of Requirements for Persons Disposing of Appliances

In the NPRM, EPA requested comment on two possible textual changes to clarify the safe disposal provisions, which are contained in paragraph 82.156(f). EPA interprets the safe disposal provisions (as stated in Applicability Determination number 59) to apply to "the entity which conducted the process where the refrigerant was released if not properly recovered." EPA proposed to clarify that 82.156(f) applies to any person who performs disposal related activities, such as dismantling, recycling, or destroying the appliance, where the refrigerant would be released into the atmosphere if not properly recovered prior to violating the refrigerant circuit of the appliance.

The first modification amends the definition of "opening" found at § 82.152 to include "the disposal of appliances." The first sentence of the revised definition of "opening" reads, "Opening an appliance means any service, maintenance, repair, or disposal of an appliance that would release refrigerant from the appliance to the atmosphere unless the refrigerant were recovered previously from the appliance." The rest of the definition remains unchanged. In the NPRM, EPA had proposed a modification that would have added the phrase "persons who open the appliances in the course of disposing of them" to the introductory text of paragraph 82.156(f). EPA has opted to not add the phrase as proposed but modify § 82.156(f) by providing examples of persons who might take the final step in the disposal process.

EPA received one comment opposing the proposed clarifications. The commenter expressed concern that the clarifications do not distinguish between recycling and disposal of appliances and could lead to recyclers facing the same requirements as those disposing of appliances or those delivering the appliances for recycling.

EPA is finalizing the two modifications to clarify that 82.156(f) applies to any person who performs disposal related activities, such as dismantling, recycling, or destroying the appliance, where the refrigerant would be released into the atmosphere if not properly recovered prior to violating the refrigerant circuit of the appliance. These clarifications do not place additional requirements on scrap recyclers. The context of the required practices of § 82.156(f) has not been changed, as since promulgation of the section 608 regulations, the required practices for safe disposal of appliances have applied to persons who take the final step in the disposal process (as disposal is defined at § 82.152 [15]). In addition, the Act does not grant scrap recyclers an exemption to the venting prohibitions. Sections 608 (b)(1) and (b)(2) require that class I and class II refrigerants as well as their substitutes contained in bulk in appliances be removed from the appliance prior to the disposal or their delivery for recycling. The Agency does not interpret this statutory language to mean that scrap recyclers who choose to dispose of appliances or choose to accept appliances (or their parts) with refrigerant charges intact are exempt from the required practices codified at § 82.156 (including the acquisition of recovery equipment that meets the standards set forth in § 82.158).

Persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) must recover any remaining refrigerant from the appliance or verify that the refrigerant has been previously evacuated from the appliance. This required practice is applicable to persons preparing to reuse the component parts of an appliance, if the preparation could result in the release of any refrigerant consisting in whole or in part of a class I or class II ODS.

4. Stickers as a Form of Verification

EPA has become aware that there is confusion in the metal scrap and recycling industry concerning the safe disposal requirements. Especially as they pertain to the use of stickers as a means of verification of refrigerant recovery. Many final disposers will not accept small appliances, MVAC, or MVAC-like appliances unless a sticker is affixed to each appliance.

EPA has never mandated such stickers, and the Agency emphasizes that they may not satisfy the verification requirements of § 82.156(f)(2). In order to satisfy the safe disposal requirements, such stickers, tags, or other identifying

[15] Disposal, as defined in § 82.152, means the process leading to and including: (1) The discharge, deposit, dumping or placing of any discarded appliance into or on any land or water; (2) the disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water; or (3) the disassembly of any appliance for reuse of its component parts.

marks must include a signed statement from the person from whom the appliance is obtained that all refrigerant that had not leaked previously has been recovered from the appliance in accordance with paragraph § 82.156(g) or (h), as applicable. The signed statement, even if presented in the form of a sticker or tag, must include the name and address of the person who recovered the refrigerant, and the date that the refrigerant was recovered.

I. Certification by Owners of Recycling or Recovery Equipment

EPA requires persons who maintain, service, repair, or dispose of appliances containing a refrigerant consisting of a class I or class II ODS to submit a signed statement to the appropriate EPA Regional office stating that they possess refrigerant recovery/recycling equipment and are complying with the applicable requirements of the rule. In the NPRM, EPA proposed to extend these provisions to persons who maintain, service, repair, or dispose of appliances containing HFCs or PFCs, by revising the regulatory text of § 82.162(a). EPA also proposed that persons who had already submitted such a signed statement for work on appliances containing CFCs or HCFCs would not need to submit a new statement for work on HFCs or PFCs. Therefore, only businesses coming into existence 60 days after the date of publication of this action would have been affected by the proposed provision.

EPA received no comments in opposition to the extension of the certification requirement to persons who maintain, service, repair, or dispose of appliances containing HFCs or PFCs. However, EPA is not finalizing the proposal to extend the certification requirement to those who maintain, service, repair, or dispose of appliances containing HFC or PFC refrigerants. EPA is extending these provisions to those who maintain, service, repair, or dispose of appliances containing substitutes that contain a class I or class II ODS.

While EPA is not finalizing certification requirements for refrigerant recovery/recycling equipment intended for use with HFC and PFC refrigerants, the Agency is aware that industry standards currently exist for certification of HFC recovery/recycling equipment. EPA supports the industry's efforts to certify and promote the use of refrigerant recovery/recycling equipment intended for use with SNAP-approved substitute refrigerants.

J. Servicing Apertures and Process Stubs

EPA prohibits the sale or distribution of CFC and HCFC appliances that are not equipped either with a process stub (in the case of small appliances) or with a servicing aperture (in the case of all other appliances) to facilitate refrigerant recovery. In the NPRM, EPA had proposed to extend this prohibition to the sale and distribution of appliances containing HFCs or PFCs. With today's action, EPA is finalizing the proposed requirement and is prohibiting the sale or distribution of any appliance containing an HFC, PFC, or substitute refrigerant consisting in whole or in part of a class I or class II ODS that is not equipped either with a process stub (in the case of small appliances) or with a servicing aperture (in the case of all other appliances) to facilitate refrigerant recovery.

EPA received a comment stating that the Act only prohibits "knowingly venting" a substitute refrigerant when servicing, maintaining, or disposing of a refrigeration appliance, but does not require new appliances to have servicing apertures or similar design features.

The rationale for requiring servicing apertures or process stubs on appliances containing a substitute refrigerant is the same as that for requiring these design features on CFC and HCFC appliances. Specifically, these features permit technicians to comply with the venting prohibition by making it much easier for them to attach recovery equipment to the refrigerant circuit and thereby recover the refrigerant properly. In the absence of an aperture or process stub requirement, there would not be a means of recovering refrigerant from appliances without suffering large refrigerant losses, and there would not be an easy means for those maintaining, servicing, repairing, or disposing of appliances to stay in compliance with the venting prohibition.

EPA is finalizing the aperture/process stub requirement for HFC and PFC appliances in order to complement industry efforts to properly recover them. EPA is aware that such industry standards have existed for several years and many manufacturers of recovery/recycling equipment have already marketed and distributed equipment certified to the industry standard. EPA hopes that such equipment will continue to be manufactured and is implementing the aperture requirement to facilitate recovery of HFC and PFC refrigerants.

K. Prohibition on the Manufacture or Import of One-Time Expansion Devices That Contain Other Than Exempted Refrigerants

In the NPRM, EPA proposed a prohibition on the manufacture or import of one-time expansion devices that contain other refrigerants than EPA has exempted from the venting prohibition because their release does not pose a threat to the environment.

On March 3, 1999, EPA published a final rule (64 FR 10373) under SNAP finding that self-chilling cans using R–134a or R–152a are unacceptable substitutes (new or retrofit) for R–12, R–502, and R–22 in the following end-uses: household refrigeration, transport refrigeration, vending machines, cold storage warehouses, and retail food refrigeration. EPA believes that a prohibition on manufacturing or importing one-time expansion devices (which include self-chilling cans) is simultaneously the least burdensome and the most effective, efficient, and equitable way of carrying out the venting prohibition as it applies to them, and has created § 82.154(o) accordingly.

EPA believes that section 608(c)(2) implicitly provides the Agency authority to promulgate regulations as necessary to implement and enforce the statutory prohibition, and section 301(a)(1)(a) further supplements that authority. EPA believes that a ban on manufacture and import of the devices is the only practical way to implement the prohibition on venting of section 608(c)(2) of the Act and hence is necessary to implement and enforce that prohibition. The following provides EPA's rationale.

First, the prohibition on manufacturing or importing the devices is not too burdensome. One-time expansion devices function only by venting; hence, one-time expansion devices containing other than exempted refrigerants therefore have no legal use, given the self-effectuating venting prohibition of 608(c)(2). Thus, a prohibition on manufacture and import would not interfere with any lawful use of the device or can. At the same time, any burden on potential manufacturers of the can would not exist, because perfect implementation of the venting prohibition would prevent the manufacture of the cans. Thus, any burden placed on the manufacturer by a ban on manufacturing should be discounted.

Second, prohibiting the manufacture or import of cans containing other than exempted refrigerants is both more effective and more efficient than

attempting to prevent the use of such cans by millions of potential consumers. EPA estimates that the total market for canned beverages in the U.S. is 100 billion units per year. Thus, if self-chilling cans captured even a small percentage of this market, very large numbers of cans could be used. For instance, if self-chilling cans captured just 1 percent of the canned beverage market, one billion self-chilling cans per year could be used, potentially violating the venting prohibition one billion times. Potential consumers of the can would include virtually the entire U.S. population. Without a ban on manufacture, the huge number of potential violators and violations would make the venting prohibition extremely difficult to enforce. A massive outreach campaign would be required to inform the public of the environmental and legal implications of using the cans, and such a campaign would still miss some fraction of the population. At the same time, enforcement would be very difficult due to the large numbers of potential violations. In contrast, outreach to and enforcement against potential manufacturers of the can would only have to reach a few targets, interdicting the cans at the top of the distribution pyramid.

Thus, a ban on manufacture and import of cans containing other than exempted refrigerants is the only practical way to implement the venting prohibition as it applies to them. Moreover, there are a number of precedents for prohibiting the manufacture, sale, and/or distribution of appliances, other equipment, and refrigerants under section 608 in order to reduce refrigerant emissions. Sections 82.154(j) and (k) prohibit the sale or distribution of appliances unless they possess servicing apertures or process stubs, and § 82.154(c) prohibits the manufacture or import of recycling or recovery equipment that is not certified. Section 82.154(g) prohibits the sale of used ozone-depleting refrigerants that have not been reclaimed (with minor exceptions), and § 82.154(m) prohibits the sale of ozone-depleting refrigerants to uncertified individuals (again with minor exceptions). Sales restrictions were more appropriate than manufacturing bans in the latter cases because (1) a manufacturing ban could not apply to used refrigerants, and (2) purchase and use of ozone-depleting refrigerants by some individuals, in this case certified technicians, is legal.

L. Reporting and Recordkeeping Requirements

In order to implement the section 608 and 609 requirements, EPA requires reporting and recordkeeping, under § 82.166, from a number of persons and entities. In the NPRM, EPA proposed to extend all of these requirements, as applicable, to persons who sell or distribute HFC or PFC refrigerants; to technicians who service HFC or PFC appliances; to persons who own HFC or PFC appliances containing more than 50 pounds of refrigerant; to reclaimers that reclaim HFC or PFC refrigerants; to equipment testing organizations that certify recovery/recycling equipment for use with HFC or PFC refrigerants; and to technician certification programs that certify technicians who maintain, service, repair, or dispose of appliances containing HFC or PFC refrigerants.

EPA received comments concerning the recordkeeping and reporting requirements associated with the proposed leak repair requirements. EPA has decided to defer action on the leak repair components of the NPRM to a future rulemaking dedicated to finalizing the proposed leak repair requirements. Additional comments that were deemed outside of the scope of today's rulemaking are addressed in the "Response to Comments" document, which is available in Air Docket No. A–92–01.

EPA is finalizing such recordkeeping and reporting requirements, but only as they apply to substitute refrigerants with a class I or class II ODS component. The rationale for requiring these records for persons who handle substitute refrigerants or equipment is the same as that for requiring such records for persons who handle CFC or HCFC refrigerants or equipment, as discussed below. In all cases, the records are necessary to ensure compliance with the regulatory program implementing the section 608(c)(2) prohibition on venting and the provisions in this action authorized by section 608(a), and hence are necessary to implement and enforce section 608(c)(2) and section 608(a). These requirements make it possible for EPA to monitor compliance and enforce against violators of the Act.

1. Persons Who Sell or Distribute Refrigerant

Persons who sell or distribute or offer to sell or distribute any substitute refrigerant consisting of an ODS must retain invoices that indicate the name of the purchaser, the date of sale, and the quantity of refrigerant purchased. Distribution or offers to distribute refrigerant include persons who give refrigerant to someone else (*e.g.*, a technician who recovers refrigerant from appliances that the technician services and gives it to another person) or who exchanges refrigerant for something else without receiving remuneration or the offer of remuneration.

Persons purchasing any substitute refrigerant consisting of an ODS refrigerant who employ certified technicians may provide evidence that at least one technician is properly certified to the wholesaler who sells them refrigerant. The wholesaler must maintain this information and is allowed to sell refrigerant to the purchaser or his authorized representative even if the authorized representative is not a properly certified technician. The purchaser must notify the wholesaler in the event that the purchaser no longer employs at least one properly certified technician, at which time the wholesaler is prohibited from selling refrigerant to the purchaser until the purchaser once again provides evidence that he or she employs at least one certified technician.

2. Technicians

Certified technicians who service, repair, maintain, or dispose of appliances must keep a copy of their certificate at their place of business where they perform service, maintenance, or repair of appliances in accordance with § 82.166(l). It has always been EPA's intention that technician certification cards be kept onsite at the technician's place of business where they perform maintenance, service, or repair. EPA understands that many technicians work onsite at their customers' facilities. While technicians certainly may wish to keep a copy of their certification on their person, EPA will require that a copy be kept at the technician's place of business. EPA intends this to mean that technician certification cards are maintained at the technician's dispatch facility or home base, and not at a remote business site such as a headquarters location which is physically removed from the technician's home base.

3. Appliance Owners and Operators

Owners and operators of appliances containing 50 or more pounds of any refrigerant consisting in whole or in part of a class I or class II substance must keep service records documenting the date and type of service in accordance with § 82.166(k).

4. Refrigerant Reclaimers

EPA-certified refrigerant reclaimers must certify to EPA that they will comply with the rule's requirements and must submit lists of the equipment that they use to clean and analyze

refrigerants. This information enables EPA to verify reclaimers' compliance with refrigerant standards and refrigerant emissions limits. In addition, refrigerant reclaimers must maintain records of the names and addresses of persons sending them material for reclamation and the quantity of material sent to them for reclamation (§ 82.166(g)). This information must be maintained on a transactional basis.

Within 30 days of the end of the calendar year, reclaimers must report to EPA the total quantity of material sent to them that year for reclamation, the mass of refrigerant reclaimed that year, and the mass of waste products generated that year.

5. Recovery and Recycling Equipment Testing Organizations

Recovery/recycling equipment testing organizations must apply to EPA for approval in order to certify refrigerant recovery/recycling equipment intended for use with any substitute refrigerant consisting in whole or in part of an ODS. This application process is necessary to ensure that all approved testing organizations and their associated laboratories have the equipment and expertise to test equipment to the applicable standards. Once approved, equipment testing organizations must maintain records of the tests performed and their results, and must submit a list of all certified equipment to EPA annually. Testing organizations must also notify EPA whenever a new model of equipment is certified or whenever an existing certified model fails a scheduled certification test. This information is required to ensure that recycling and recovery equipment meets the performance standards of the regulation (§ 82.160 and §§ 82.166(c), (d), and (e)).

6. Disposers

Persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, room air conditioner, MVAC, or MVAC-like appliance who do not recover the refrigerant themselves must maintain copies of signed statements attesting that the refrigerant has been removed prior to final disposal of each appliance. These records help EPA verify that refrigerant is recovered at some point during the disposal process even if the final disposer does not have recovery equipment (§ 82.166(i)). Stickers, tags, or identifying marks on appliances would not satisfy this recordkeeping requirement unless all of the requirements of § 82.156(f)(2) are followed.

7. Programs Certifying Technicians

Organizations operating technician certification programs must apply to EPA to have their programs approved. The application process ensures that the technician certification programs meet minimum standards for generating, tracking, and grading tests, and keeping records.

Approved technician certification programs have to maintain records including the names of certified technicians and the unique numbers assigned to each technician certified through their programs. These records allow both the Agency and the certification program to verify certification claims and to monitor the certification process.

M. Economic Analysis

The Agency has performed a cost benefit analysis of this regulation, which is available for review in the public docket for this rulemaking. This analysis is summarized below.

1. Baseline

Since these regulations are being promulgated in addition to other provisions that affect the use of substitute refrigerants, the baseline for this analysis must reflect the state of affairs after the implementation of previous provisions of the Clean Air Act, and before the implementation of the final rule.

The provision of the Act that must be considered when defining the baseline for these regulations is the prohibition on venting contained in section 608(c)(2), which is self-effectuating. This prohibition makes it illegal to knowingly vent (during the maintenance, service, repair, or disposal of an appliance) any substitute for a class I or class II ODS used as a refrigerant. EPA interprets this to mean that all HFC and PFC refrigerants, including those consisting of a class I or class II ODS, must not be vented to the atmosphere in the course of maintaining, repairing, servicing, or disposing of appliances.

2. Costs

Since the regulatory language of the National Recycling and Emission Reduction Program and the statutory language of Section 608 of the Clean Air Act largely address the requirements of the Substitutes Recycling Rule, it is assumed that compliance with refrigerant recovery, technician certification, equipment certification, and leak repair requirements is 100 percent in the baseline. Compliance with the sales restriction is assumed to be 99 percent in the baseline. As such, this rule serves primarily as a clarification, unequivocally extending these requirements to all refrigerants containing class I or class II ODS, in whole or in part.

Finally, it is assumed that most members of the regulated community are in full compliance with recordkeeping and reporting requirements in the baseline, with the exception of 20 percent of refrigerant wholesalers and owners of industrial process refrigeration equipment that deal with ODS-containing refrigerant blends.

The costs of the substitutes recycling rule consist of the costs of the sales restriction requirements and the reporting and record-keeping requirements. The Agency estimates that the cost for this regulatory program for the period 2004–2015, is approximately $3.1 million at a 2 percent discount rate, and $2.6 million at a 7 percent discount rate. Annualized costs are estimated to be approximately $269 thousand at a 2 percent discount rate, and $295 thousand at a 7 percent discount rate.

3. Benefits

The benefits of the provisions discussed above consist of avoided damage to human health and the environment that would occur if, without regulation, environmentally harmful refrigerants were released rather than recovered.

The EPA's estimates of human health and environmental benefits were developed using a similar methodology as that used in the 1993 RIA. Specifically, the amount of avoided refrigerant emissions from the equipment certification and sales restriction rule components was calculated, and the associated number of avoided health effects (*e.g.*, cataract incidence and skin cancer incidence and mortality) was estimated. Once the number of avoided health effects was estimated, benefits were monetized based on the estimated value of a saved life (VSL) and the cost of treating cataracts and non-fatal skin cancers.

The regulatory impact analysis assumes that the rule increases compliance with the sales restriction component of the rule. The benefits associated with equipment certification were also assessed in this analysis, as they were not quantified in the 1993 RIA. The Agency estimates the benefits to be nearly $150,000 at a 2 percent discount rate, or approximately $20,000 at a 7 percent discount rate.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to EO 12866 review.

B. Paperwork Reduction Act

The information collection requirements in this rule were submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No.1626.07, and OMB Control number: 2060–0256) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., SW., Washington, DC 20460; by e-mail at *farmer.sandy@epa.gov;* or by calling (202) 260–2740. A copy may also be downloaded off the Internet at *www.epa.gov/icr.*

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0256.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. EPA does not expect this rule to be a burden on time or financial resources.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by Small Business Administration size standards (*see* table below); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. EPA has considered the economic impacts of today's final rule on small entities. Specifically, this rule economically impacts small entities that manufacture, distribute, or sell ODS-containing refrigerant blends, as well as those that maintain and repair equipment containing those blends. EPA has determined that today's rulemaking will potentially affect approximately 819 small entities. These small entities will experience an impact ranging from 0.001 percent to 0.163 percent, based on their estimated annual sales and revenues. EPA has also concluded that no small entities will experience an economic impact of greater than 1 percent.

EPA performed a detailed screening analysis in 1992 of the impact of the recycling regulation for ozone-depleting refrigerants on small entities. The methodology of this analysis is discussed at length in the May 14, 1993, regulation (58 FR 28710), and its associated Information Collection Request (ICR) No. 1626.07/OMB No. 2060–0256. In addition, EPA has prepared a Small Business Screening Analysis for this final rulemaking (Docket Number A–92–01). A summary of the small entities and their associated economic impact is summarized below according to the following North American Industry Classification System (NAICS) codes.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. EPA has reconsidered portions of the NPRM in part due to the small business concerns raised by the public. Today's action also removes duplicative regulation by exempting certain substitute refrigerants from the statutory venting prohibition on the basis that their releases are covered under other laws, regulations, or statutes.

2004 Compliance Costs per Small Company by NAICS Code and Rule Component

NAICS codes	NAICS description & number of affected small companies	Sales restriction	Record-keeping	Total cost (2004)
325120	Industrial Gas Manufacturing Affected Small Companies: 5.	$1,112	$0	$5,560
42111	Automobiles & Other Motor Vehicle Wholesalers Affected Small Companies: 88.	0	400	35,200
42114	Motor Vehicle Supplies & New Parts Wholesalers Affected Small Companies: 99.	0	400	39,600
42193	Recyclable Material Wholesalers	0	105	11,235

2004 COMPLIANCE COSTS PER SMALL COMPANY BY NAICS CODE AND RULE COMPONENT—Continued

NAICS codes	NAICS description & number of affected small companies	Sales restriction	Record-keeping	Total cost (2004)
4226901	Affected Small Companies: 107. Industrial Gas Wholesalers	30	400	3,910
441310	Affected Small Companies: 37 (sales restriction); 7 (recordkeeping). Automotive Parts & Accessories Stores	10	400	20,720
541380	Affected Small Companies: 232 (sales restriction); 46 (recordkeeping). Environmental Test Laboratories/Services	0	0	0
81131	Affected Small Companies: 1. Commercial/Industrial Machinery & Equipment Repair & Maintenance Affected Small Companies: 251.	0	1,250	313,750
Total Number Affected		274	598	819
Total Cost		8,990	420,985	429,975

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government Agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This rule supplements the statutory self-effectuating prohibition against venting refrigerants by ensuring that certain service practices are conducted that reduce emissions, establish equipment and reclamation certification requirements. These standards are amendments to the recycling standards under section 608 of the Clean Air Act. Many of these standards involve reporting requirements and are not expected to be a high cost issue. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the reasons outlined above, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's rule is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The regulations promulgated under today's action are done so under Title VI of the Act which does not grant delegation rights to the States. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This final rule amends the refrigerant recycling standards which have been developed to protect the stratospheric ozone layer. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

Executive Order 13045: Protection of Children from Environmental Health & Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of

the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. This rule amends the recycling standards for refrigerants to protect the stratosphere from ozone depletion, which in turn protects human health and the environment from increased amounts of UV radiation.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. EPA has decided to the ARI Standard 700–1995 into Appendix A of 40 CFR part 82, subpart F. The standard was created by one of the refrigeration industry's primary standards-setting organization, the Air-Conditioning and Refrigeration Institute (ARI).

ARI is a national trade association representing manufacturers of more than 90 percent of North American produced central air-conditioning and commercial refrigeration equipment. ARI develops and publishes technical standards for industry products, including standards for reclaimed refrigerant. Since many ARI standards are accepted as American National Standards, EPA feels that an earnest effort has been made to comply with the requirements of of NTTAA.

J. The Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). It will become effective May 11, 2004.

List of Subjects in 40 CFR Part 82

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

Dated: February 17, 2004.

Michael O. Leavitt,

Administrator.

■ Title 40 chapter I of the Code of Federal Regulations, part 82, is amended as follows:

PART 82—[AMENDED]

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

■ 2. Section 82.150 is revised to read as follows:

§ 82.150 Purpose and scope.

(a) The purpose of this subpart is to reduce emissions of class I and class II refrigerants and their substitutes to the lowest achievable level by maximizing the recapture and recycling of such refrigerants during the service, maintenance, repair, and disposal of appliances and restricting the sale of refrigerants consisting in whole or in part of a class I and class II ODS in accordance with Title VI of the Clean Air Act.

(b) This subpart applies to any person servicing, maintaining, or repairing appliances. This subpart also applies to persons disposing of appliances, including small appliances and motor vehicle air conditioners. In addition, this subpart applies to refrigerant reclaimers, technician certifying programs, appliance owners and operators, manufacturers of appliances, manufacturers of recycling and recovery equipment, approved recycling and recovery equipment testing organizations, persons selling class I or class II refrigerants or offering class I or class II refrigerants for sale, and persons purchasing class I or class II refrigerants.

■ 3. Section 82.152 is amended by adding, in alphabetical order, definitions for "Medium-pressure appliance," "One-time expansion device," "Refrigerant," "Substitute," and by revising the definitions for "Appliance," "High-pressure appliance," "Low-pressure appliance," "Opening," "Technician," and "Very high-pressure appliance" to read as follows:

§ 82.152 Definitions.

Appliance means any device which contains and uses a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

* * * * *

High-pressure appliance means an appliance that uses a refrigerant with a liquid phase saturation pressure between 170 psia and 355 psia at 104 °F. This definition includes but is not limited to appliances using R–401A, R–409A, R–401B, R–411A, R–22, R–411B, R–502, R–402B, R–408A, and R–402A.

* * * * *

Low-pressure appliance means an appliance that uses a refrigerant with a liquid phase saturation pressure below 45 psia at 104 °F. This definition includes but is not limited to appliances using R–11, R–123, and R–113.

* * * * *

Medium-pressure appliance means an appliance that uses a refrigerant with a liquid phase saturation pressure between 45 psia and 170 psia at 104 °F. This definition includes but is not limited to appliances using R–114, R–124, R–12, R–401C, R–406A, and R–500.

* * * * *

One-time expansion device means an appliance that relies on the one-time release of its refrigerant charge to the environment in order to provide a cooling effect.

Opening an appliance means any service, maintenance, repair, or disposal of an appliance that would release refrigerant from the appliance to the atmosphere unless the refrigerant was recovered previously from the appliance. Connecting and disconnecting hoses and gauges to and from the appliance to measure pressures within the appliance and to add refrigerant to or recover refrigerant from

the appliance shall not be considered "opening."

* * * * *

Refrigerant means, for purposes of this Subpart, any substance consisting in part or whole of a class I or class II ozone-depleting substance that is used for heat transfer purposes and provides a cooling effect, or any substance used as a substitute for such a class I or class II substance by any user in a given end-use, except for the following substitutes in the following end-uses:

(1) Ammonia in commercial or industrial process refrigeration or in absorption units;

(2) Hydrocarbons in industrial process refrigeration (processing of hydrocarbons);

(3) Chlorine in industrial process refrigeration (processing of chlorine and chlorine compounds);

(4) Carbon dioxide in any application;

(5) Nitrogen in any application; or

(6) Water in any application.

* * * * *

Substitute means any chemical or product, whether existing or new, that is used by any person as an EPA approved replacement for a class I or II ozone-depleting substance in a given refrigeration or air-conditioning end-use.

* * * * *

Technician means any person who performs maintenance, service, or repair, that could be reasonably expected to release refrigerants from appliances, into the atmosphere. Technician also means any person who performs disposal of appliances, except for small appliances, MVACs, and MVAC-like appliances, that could be reasonably expected to release refrigerants from the appliances into the atmosphere. Performing maintenance, service, repair, or disposal could be reasonably expected to release refrigerants only if the activity is reasonably expected to violate the integrity of the refrigerant circuit. Activities reasonably expected to violate the integrity of the refrigerant circuit include activities such as attaching and detaching hoses and gauges to and from the appliance to add or remove refrigerant or to measure pressure and adding refrigerant to and removing refrigerant from the appliance. Activities such as painting the appliance, rewiring an external electrical circuit, replacing insulation on a length of pipe, or tightening nuts and bolts on the appliance are not reasonably expected to violate the integrity of the refrigerant circuit. Performing maintenance, service, repair, or disposal of appliances that have been evacuated pursuant to § 82.156 could not be reasonably expected to release refrigerants from the appliance unless the maintenance, service, or repair consists of adding refrigerant to the appliance. Technician includes but is not limited to installers, contractor employees, in-house service personnel, and in some cases owners and/or operators.

Very high-pressure appliance means an appliance that uses a refrigerant with a critical temperature below 104 °F or with a liquid phase saturation pressure above 355 psia at 104 °F. This definition includes but is not limited to appliances using R–13 or R–503.

■ 4. Section 82.154 is amended by revising paragraphs (a), (b) introductory text, and (c); by adding new paragraph (p) and removing the undesignated text at the end of paragraph (a) to read as follows:

§ 82.154 Prohibitions.

(a) Effective May 11, 2004, no person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any refrigerant from such appliances. The knowing release of refrigerant subsequent to its recovery from an appliance shall be considered a violation of this prohibition. *De minimis* releases associated with good faith attempts to recycle or recover refrigerants are not subject to this prohibition. Releases shall be considered *de minimis* only if they occur when:

(1) The required practices set forth in § 82.156 are observed, recovery or recycling machines that meet the requirements set forth in § 82.158 are used, and the technician certification provisions set forth in § 82.161 are observed; or

(2) The requirements set forth in subpart B of this part are observed.

(b) No person may open appliances except MVACs and MVAC-like appliances for maintenance, service, or repair, and no person may dispose of appliances except for small appliances, MVACs, and MVAC-like appliances:

* * * * *

(c) No person may manufacture or import recycling or recovery equipment for use during the maintenance, service, or repair of appliances except MVACs and MVAC-like appliances, and no person may manufacture or import recycling or recovery equipment for use during the disposal of appliances except small appliances, MVACs, and MVAC-like appliances, unless the equipment is certified pursuant to § 82.158 (b) or (d), as applicable.

* * * * *

(p) No person may manufacture or import one-time expansion devices that contain other than exempted refrigerants.

■ 5. Section 82.156 is amended by revising paragraph (a) introductory text, Table 1, and paragraph (b) to read as follows:

§ 82.156 Required practices.

(a) All persons disposing of appliances, except for small appliances, MVACs, and MVAC-like appliances must evacuate the refrigerant, including all the liquid refrigerant, in the entire unit to a recovery or recycling machine certified pursuant to § 82.158. All persons opening appliances except for MVACs and MVAC-like appliances for maintenance, service, or repair must evacuate the refrigerant, including all the liquid refrigerant (except as provided in paragraph (a)(2)(i)(B) of this section), in either the entire unit or the part to be serviced (if the latter can be isolated) to a system receiver (*e.g.*, the remaining portions of the appliance, or a specific vessel within the appliance) or a recovery or recycling machine certified pursuant to § 82.158. A technician must verify that the applicable level of evacuation has been reached in the appliance or the part before it is opened.

* * * * *

TABLE 1.—REQUIRED LEVELS OF EVACUATION FOR APPLIANCES

[Except for small appliances, MVACs, and MVAC-like appliances]

Type of appliance	Inches of Hg vacuum (relative to standard atmospheric pressure of 29.9 inches Hg)	
	Using recovery or recycling equipment manufactured or imported before November 15, 1993	Using recovery or recycling equipment manufactured or imported on or after November 15, 1993
Very high-pressure appliance	0	0
High-pressure appliance, or isolated component of such appliance, normally containing less than 200 pounds of refrigerant	0	0
High-pressure appliance, or isolated component of such appliance, normally containing 200 pounds or more of refrigerant	4	10
Medium-pressure appliance, or isolated component of such appliance, normally containing less than 200 pounds of refrigerant	4	10
Medium-pressure appliance, or isolated component of such appliance, normally containing 200 pounds or more of refrigerant	4	15
Low-pressure appliance	25	25 mm Hg absolute

* * * * *

(b) All persons opening appliances except for small appliances, MVACs, and MVAC-like appliances for maintenance, service, or repair and all persons disposing of appliances except small appliances, MVACs, and MVAC-like appliances must have at least one piece of certified, self-contained recovery or recycling equipment available at their place of business. Persons who maintain, service, repair, or dispose of only appliances that they own and that contain pump-out units are exempt from this requirement. This exemption does not relieve such persons from other applicable requirements of this section.

* * * * *

■ 6. Section 82.161 is amended by revising paragraph (a)(2) to read as follows:

§ 82.161 Technician certification.

(a) * * *

(2) Technicians who maintain, service, or repair medium-, high-, or very high-pressure appliances, except small appliances, MVACs, and MVAC-like appliances, or dispose of medium-, high-, or very high-pressure appliances, except small appliances, MVACs, and MVAC-like appliances, must be properly certified as Type II technicians.

* * * * *

■ 7. Section 82.162 is amended by revising the EPA regional addresses in paragraph (a)(5) to read as follows:

§ 82.162 Certification by owners of recycling or recovery equipment.

(a) * * *

(5) * * *

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont must send their certifications to: CAA section 608 Enforcement Contact; EPA Region I; Mail Code SEA; JFK Federal Building; One Congress Street, Suite 1100; Boston, MA 02114–2023.

Owners or lessees of recycling or recovery equipment having their places of business in: New York, New Jersey, Puerto Rico, and Virgin Islands must send their certifications to: CAA section 608 Enforcement Contact; EPA Region II (2DECA–AC); 290 Broadway, 21st Floor; New York, NY 10007–1866.

Owners or lessees of recycling or recovery equipment having their places of business in: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia must send their certifications to: CAA section 608 Enforcement Contact; EPA Region III—Wheeling Operations Office; Mail Code 3AP12; 303 Methodist Building; 11th and Chapline Streets; Wheeling, WV 26003.

Owners or lessees of recycling or recovery equipment having their places of business in: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee must send their certifications to: CAA section 608 Enforcement Contact; EPA Region IV(APT–AE); Atlanta Federal Center; 61 Forsyth Street, SW.; Atlanta, GA 30303.

Owners or lessees of recycling or recovery equipment having their places of business in: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin must send their certifications to: CAA section 608 Enforcement Contact, EPA Region V (AE17J); 77 West Jackson Blvd.; Chicago, IL 60604–3507.

Owners or lessees of recycling or recovery equipment having their places of business in: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas must send their certifications to: CAA section 608 Enforcement Contact; EPA Region VI (6EN–AA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202.

Owners or lessees of recycling or recovery equipment having their places of business in: Iowa, Kansas, Missouri, and Nebraska must send their certifications to: CAA section 608 Enforcement Contact; EPA Region VII; Mail Code APCO/ARTD; 901 North 5th Street; Kansas City, KS; 66101.

Owners or lessees of recycling or recovery equipment having their places of business in: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming must send their certifications to: CAA section 608 Enforcement Contact, EPA Region VIII, Mail Code 8ENF–T, 999 18th Street, Suite 500, Denver, CO 80202–2466.

Owners or lessees of recycling or recovery equipment having their places of business in: American Samoa, Arizona, California, Guam, Hawaii, and Nevada must send their certifications to: CAA section 608 Enforcement Contact; EPA Region IX; Mail Code AIR–5; 75 Hawthorne Street; San Francisco, CA 94105.

Owners or lessees of recycling or recovery equipment having their places of business in: Alaska, Idaho, Oregon, and Washington must send their certifications to: CAA section 608 Enforcement Contact; EPA Region X (OAQ–107); 1200 Sixth Avenue; Seattle, WA 98101.

* * * * *

■ 8. Section 82.164 is amended by revising the introductory text and

paragraphs (a), (b), and (e)(3) to read as follows:

§ 82.164 Reclaimer certification.

Effective May 11, 2004, all persons reclaiming used refrigerant for sale to a new owner, except for persons who properly certified under this section prior to May 11, 2004, must certify to the Administrator that such person will:

(a) Reprocess refrigerant to all of the specifications in Appendix A of this subpart (based on ARI Standard 700–1995, *Specification for Fluorocarbons and Other Refrigerants*) that are applicable to that refrigerant;

(b) Verify that the refrigerant meets these specifications using the analytical methodology prescribed in Appendix A, which includes the primary methodologies included in the appendix to the ARI Standard 700–1995;

* * * * *

(e) * * *

(3) The owner or a responsible officer of the reclaimer must sign the certification stating that the refrigerant will be reprocessed to all of the specifications in Appendix A of this subpart (based on ARI Standard 700–1995, *Specification for Fluorocarbons and Other Refrigerants*) that are applicable to that refrigerant, that the refrigerant's conformance to these specifications will be verified using the analytical methodology prescribed in Appendix A (which includes the primary methodologies included in the appendix to the ARI Standard 700–1995), that no more than 1.5 percent of the refrigerant will be released during the reclamation process, that wastes from the reclamation process will be properly disposed of, that the owner or responsible officer of the reclaimer will maintain records and submit reports in accordance with § 82.166(g) and (h), and that the information given is true and correct. The certification should be sent to the following address: U.S. Environmental Protection Agency; Global Programs Division (6205J); 1200 Pennsylvania Avenue, NW., Washington, DC 20460; Attn: Section 608 Recycling Program Manager—Reclaimer Certification.

* * * * *

■ 9. Section 82.166 is amended by revising paragraphs (a) and (b) to read as follows:

§ 82.166 Reporting and recordkeeping requirements.

(a) All persons who sell or distribute or offer to sell or distribute any refrigerant must retain invoices that indicate the name of the purchaser, the date of sale, and the quantity of refrigerant purchased.

(b) Purchasers of refrigerant who employ certified technicians may provide evidence that at least one technician is properly certified to the wholesaler who sells them refrigerant; the wholesaler must then keep this information on file and may sell refrigerant to the purchaser or his authorized representative even if such purchaser or authorized representative is not a properly certified technician. In such cases, the purchaser must notify the wholesaler in the event that the purchaser no longer employs at least one properly certified technician. The wholesaler is then prohibited from selling refrigerants to the purchaser until such time as the purchaser employs at least one properly certified technician. At that time, the purchaser must provide new evidence that at least one technician is properly certified.

* * * * *

■ 10. Appendix A to subpart F is revised to read as follows:

APPENDIX A TO SUBPART F OF PART 82—SPECIFICATIONS FOR FLUOROCARBONS AND OTHER REFRIGERANTS

This appendix is based on the Air-Conditioning and Refrigeration Institute Standard 700–1995.

Section 1. Purpose

1.1 *Purpose.* The purpose of this standard is to evaluate and accept/reject refrigerants regardless of source (*i.e.*, new, reclaimed and/or repackaged) for use in new and existing refrigeration and air-conditioning products as required under 40 CFR part 82.

1.1.1 *Intent.* This standard is intended for the guidance of the industry including manufacturers, refrigerant reclaimers, repackagers, distributors, installers, servicemen, contractors and for consumers.

1.1.2 *Review and Amendment.* This standard is subject to review and amendment as the technology advances.

Section 2. Scope

2.1 *Scope.* This standard specifies acceptable levels of contaminants (purity requirements) for various fluorocarbon and other refrigerants regardless of source and lists acceptable test methods. These refrigerants are R–113; R–123; R–11; R–114; R–124; R–12; R–401C; R–406A; R–500; R–401A; R–409A; R–401B; R–411A; R–22; R–411B; R–502; R–402B; R–408A; R–402A; R–13; R–503 as referenced in the ANSI/ASHRAE Standard 34–1992. (American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc., Standard 34–1992). Copies may be obtained from ASHRAE Publications Sales, 1791 Tullie Circle, NE, Atlanta, GA 30329. Copies may also be inspected at Environmental Protection Agency; Office of Air and Radiation Docket; 1301 Constitution Ave., NW., Room B108; Washington, DC 20460.

Section 3. Definitions

3.1 *"Shall," "Should," "Recommended,"* or *"It Is Recommended."* "Shall," "should," "recommended," or "it is recommended" shall be interpreted as follows:

3.1.1 *Shall.* Where "shall" or "shall not" is used for a provision specified, that provision is mandatory if compliance with the appendix is claimed.

3.1.2 *Should, Recommended,* or *It is Recommended.* "Should", "recommended", or "it is recommended" is used to indicate provisions which are not mandatory but which are desirable as good practice.

Section 4. Characterization of Refrigerants and Contaminants

4.1 *Characterization.* Characterization of refrigerants and contaminants addressed are listed in the following general classifications:

4.1.1 *Characterization*

a. Gas Chromatography

b. Boiling point and boiling point range

4.1.2 *Contaminants*

a. Water

b. Chloride

c. Acidity

d. High boiling residue

e. Particulates/solids

f. Non-condensables

g. Impurities including other refrigerants

Section 5. Sampling, Summary of Test Methods and Maximum Permissible Contaminant Levels

5.1 *Referee Test.* The referee test methods for the various contaminants are summarized in the following paragraphs. Detailed test procedures are included in *Appendix C to ARI Standard 700–1995: Analytical Procedures for ARI Standard 700–1995,* 1995, Air-Conditioning and Refrigeration Institute. *Appendix C to ARI Standard 700–1995* is incorporated by reference. [This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Air-Conditioning and Refrigeration Institute, 4301 North Fairfax Drive, Arlington, Virginia 22203. Copies may also be inspected at Public Docket No. A–92–01, Environmental Protection Agency,

1301 Constitution Ave., NW., Washington, DC, 20460 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.] If alternative test methods are employed, the user must be able to demonstrate that they produce results equivalent to the specified referee method.

5.2 *Refrigerant Sampling*

5.2.1 *Sampling Precautions.* Special precautions should be taken to assure that representative samples are obtained for analysis. Sampling shall be done by trained laboratory personnel following accepted sampling and safety procedures.

5.2.2 *Gas Phase Sample.* A gas phase sample shall be obtained for determining the non-condensables. Since non-condensable gases, if present, will concentrate in the vapor phase of the refrigerant, care must be exercised to eliminate introduction of air during the sample transfer. Purging is not an acceptable procedure for a gas phase sample since it may introduce a foreign product. Since R–11, R–113, and R–123 have normal boiling points at or above room temperature, non-condensable determination is not required for these refrigerants.

5.2.2.1 *Connection.* The sample cylinder shall be connected to an evacuated gas sampling bulb by means of a manifold. The manifold should have a valve arrangement that facilitates evacuation of all connecting tubing leading to the sampling bulb.

5.2.2.2 *Equalizing Pressures.* After the manifold has been evacuated, close the valve to the pump and open the valve on the system. Allow the pressure to equilibrate and close valves.

5.2.3 *Liquid Phase Sample.* A liquid phase sample is required for all tests listed in this standard except the test for non-condensables.

5.2.3.1 *Preparation.* Place a clean, empty sample cylinder with the valve open in an oven at 110°C (230°F) for one hour. Remove it from the oven while hot, immediately connect to an evacuation system and evacuate to less than 1 mm mercury (1000 microns). Close the valve and allow it to cool. Weigh the empty cylinder.

5.2.3.2 *Manifolding.* The valve and lines from the unit to be sampled shall be clean and dry. The cylinder shall be connected to an evacuated gas sampling cylinder by means of a manifold. The manifold should have a valve arrangement that facilitates evacuation of all connecting tubing leading to the sampling cylinder.

5.2.3.3 *Liquid Sampling.* After the manifold has been evacuated, close the valve to the pump and open the valve on the system. Take the sample as a liquid by chilling the sample cylinder slightly. Accurate analysis requires that the sample container be filled to at least 60% by volume, however under no circumstances should the cylinder be filled to more than 80% by volume. This can be accomplished by weighing the empty cylinder and then the cylinder with refrigerant. When the desired amount of refrigerant has been collected, close the valve(s) and disconnect the sample cylinder immediately.

5.2.3.4 *Record Weight.* Check the sample cylinder for leaks and record the gross weight.

5.3 *Refrigerant Characterization.*

5.3.1 *Primary Method.* The primary method shall be gas chromatography (GC) as described in *Appendix C to ARI Standard 700–1995.* The chromatogram of the sample shall be compared to known standards.

5.3.2 *Alternative Method.* Determination of the boiling point and boiling point range is an acceptable alternative test method which can be used to characterize refrigerants. The test method shall be that described in the Federal Specification for "Fluorocarbon Refrigerants," BB–F–1421 B, dated March 5, 1982, section 4.4.3.

5.3.3 *Required Values.* The required values for boiling point and boiling point range are given in Table 1A, *Physical Properties of Single Component Refrigerants;* Table 1B, *Physical Properties of Zeotropic Blends (400 Series Refrigerants);* and Table 1C, *Physical Properties of Azeotropic Blends (500 Series Refrigerants).*

5.4 *Water Content.*

5.4.1 *Method.* The Coulometric Karl Fischer Titration shall be the primary test method for determining the water content of refrigerants. This method is described in *Appendix C to ARI Standard 700–1995.* This method can be used for refrigerants that are either a liquid or a gas at room temperature, including refrigerants 11, 113, and 123. For all refrigerants, the sample for water analysis shall be taken from the liquid phase of the container to be tested. Proper operation of the analytical method requires special equipment and an experienced operator. The precision of the results is excellent if proper sampling and handling procedures are followed. Refrigerants containing a colored dye can be successfully analyzed for water using this method.

5.4.2 *Limits.* The value for water content shall be expressed as parts per million (ppm) by weight and shall not exceed the maximum specified (*see* Tables 1A, 1B, and 1C).

5.5 *Chloride.*

The refrigerant shall be tested for chloride as an indication of the presence of hydrochloric acid and/or metal chlorides. The recommended procedure is intended for use with new or reclaimed refrigerants. Significant amounts of oil may interfere with the results by indicating a failure in the absence of chloride.

5.5.1 *Method.* The test method shall be that described in *Appendix C to ARI Standard 700–1995.* The test will show noticeable turbidity at chloride levels of about 3 ppm by weight or higher.

5.5.2 *Turbidity.* The results of the test shall not exhibit any sign of turbidity. Report the results as "pass" or "fail."

5.6 *Acidity.*

5.6.1 *Method.* The acidity test uses the titration principle to detect any compound that is highly soluble in water and ionizes as an acid. The test method shall be that described in *Appendix C to ARI Standard 700–1995.* This test may not be suitable for determination of high molecular weight organic acids; however these acids will be found in the high boiling residue test outlined in 5.7. The test requires a 100 to 120 gram sample and has a detection limit of 0.1 ppm by weight calculated as HCl.

5.6.2 *Limits.* The maximum permissible acidity is 1 ppm by weight as HCl.

5.7 *High Boiling Residue.*

5.7.1 *Method.* High boiling residue shall be determined by measuring the residue of a standard volume of refrigerant after evaporation. The refrigerant sample shall be evaporated at room temperature or at a temperature 45°C (115°F) for all refrigerants, except R–113 which shall be evaporated at 60°C (140°F), using a Goetz bulb as specified in *Appendix C to ARI Standard 700–1995.* Oils and/or organic acids will be captured by this method.

5.7.2 *Limits.* The value for high boiling residue shall be expressed as a percentage by volume and shall not exceed the maximum percent specified (*see* Tables 1A, 1B, and 1C). An alternative gravimetric method is described in *Appendix C to ARI Standard 700–1995.*

5.8 *Method of Tests for Particulates and Solids.*

5.8.1 *Method.* A measured amount of sample is evaporated from a Goetz bulb under controlled temperature conditions. The particulates/solids shall be determined by visual examination of the Goetz bulb prior to the evaporation of refrigerant. Presence of dirt, rust or other particulate contamination is reported as "fail." For details of this test

method, refer to Part 3 of *Appendix C to ARI Standard 700–1995.*

5.9 *Non-Condensables.*

5.9.1 *Sample.* A vapor phase sample shall be used for determination of non-condensables. Non-condensable gases consist primarily of air accumulated in the vapor phase of refrigerants. The solubility of air in the refrigerants liquid phase is extremely low and air is not significant as a liquid phase contaminant. The presence of non-condensable gases may reflect poor quality control in transferring refrigerants to storage tanks and cylinders.

5.9.2 *Method.* The test method shall be gas chromatography with a thermal conductivity detector as described in *Appendix C to ARI Standard 700–1995.*

5.9.3 *Limit.* The maximum level of non-condensables in the vapor phase of a refrigerant in a container shall not exceed 1.5% by volume (*see* Tables 1A, 1B, and 1C).

5.10 *Impurities, including Other Refrigerants.*

5.10.1 *Method.* The amount of other impurities including other refrigerants in the subject refrigerant shall be determined by gas chromatography as described in *Appendix C to ARI Standard 700–1995.*

5.10.2 *Limit.* The subject refrigerant shall not contain more than 0.5% by weight of impurities including other refrigerants (*see* Tables 1A, 1B, and 1C).

Section 6. Reporting Procedure

6.1 *Reporting Procedure.* The source (manufacturer, reclaimer or repackager) of the packaged refrigerant shall be identified. The refrigerant shall be identified by its accepted refrigerant number and/or its chemical name. Maximum permissible levels of contaminants are shown in Tables 1A, 1B, and 1C. Test results shall be tabulated in a like manner.

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Table 1A. Physical Properties of Single Component Refrigerants

	REPORTING UNITS	REFERENCE (SUBCLAUSE)	R-11	R-12	R-13	R-22	R-113	R-114	R-123	R-124
CHARACTERISTICS:										
BOILING POINT[1]	°F @ 1.00 ATM	---	74.9	-21.6	-114.6	-41.4	117.6	38.8	82.6	12.2
	°C @ 1.00 ATM	---	23.8	-29.8	-81.4	-40.8	47.6	3.8	27.9	-11.0
BOILING POINT RANGE[1]	K	---	0.3	0.3	0.5	0.3	0.3	0.3	0.3	0.3
TYPICAL ISOMER CONTENT	BY WEIGHT	---					0-1% R-113A	0-30% R-114A	0-8% R-123A	0-5% R-124A
VAPOR PHASE CONTAMINANTS:										
AIR AND OTHER NON-CONDENSABLES	% BY VOLUME @ 25°C	5.9	N/A[2]	1.5	1.5	1.5	N/A[2]	1.5	N/A[2]	1.5
LIQUID PHASE CONTAMINANTS:										
WATER	PPM BY WEIGHT	5.4	20	10	10	10	20	10	20	10
ALL OTHER IMPURITIES INCLUDING REFRIGERANTS	% BY WEIGHT	5.1	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
HIGH BOILING RESIDUE	% BY VOLUME	5.7	0.01	0.01	0.05	0.01	0.03	0.01	0.01	0.01
PARTICULATES/SOLIDS	VISUALLY CLEAN TO PASS	5.8	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS
ACIDITY	PPM BY WEIGHT	5.6	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
CHLORIDES[3]	NO VISIBLE TURBIDITY	5.5	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS

Table 1B. Physical Properties of Zeotropic Blends (400 Series Refrigerants)							
	REPORTING UNITS	REFERENCE (SUBCLAUSE)	R-401A	R-401B	R-402A	R-402B	R-406A [3]
CHARACTERISTICS:							
REFRIGERANT COMPONENTS			R-22/152A/124	R-22/152A/124	R-125/290/22	R-125/290/22	R-22/600A/142B
NOMINAL COMP, WEIGHT%			53/13/34	61/11/28	60/2/38	38/2/60	55/4/41
ALLOWABLE COMP, WEIGHT%			51-54/11.5-13.5/33-35	59-63/9.5-11.5/27-29	58-62/1-3/36-40	36-40/1-3/58-62	53-57/3-5/40-42
BOILING POINT [1]	·F · 1.00 ATM	---	-27.7 TO -18.1	-30.4 TO -21.2	-54.8 TO -53.9	-53.3 TO -49.0	-32.7 TO -15.0
	·C · 1.00 ATM	---	-33.2 TO -27.8	-34.7 TO -29.6	-48.2 TO -47.7	-47.4 TO -45.0	-36.0 TO -26.1
BOILING POINT RANGE [1]	K	---	5.4	5.1	0.5	2.4	9.9
VAPOR PHASE CONTAMINANTS:							
AIR AND OTHER NON-CONDENSABLES	% BY VOLUME 25·C	5.9	1.5	1.5	1.5	1.5	1.5
LIQUID PHASE CONTAMINANTS:							
WATER	PPM BY WEIGHT	5.4	10	10	10	10	10
ALL OTHER IMPURITIES INCLUDING REFRIGERANTS	% BY WEIGHT	5.1	0.50	0.50	0.50	0.50	0.50
HIGH BOILING RESIDUE	% BY VOLUME	5.7	0.01	0.01	0.01	0.01	0.01
PARTICULATES/SOLIDS	VISUALLY CLEAN TO PASS	5.8	PASS	PASS	PASS	PASS	PASS
ACIDITY	PPM BY WEIGHT	5.6	1.0	1.0	1.0	1.0	1.0

Table 1B (continued). Physical Properties of Zeotropic Blends (400 Series Refrigerants)									
	REPORTING UNITS	REFERENCE (SUBCLAUSE)	R-407C	R-408A	R-409A	R-410A	R-410B	R-411A [3]	R-411B [3]
CHARACTERISTICS:									
REFRIGERANT COMPONENTS			R-32/125/134A	R125/143A/22	R22/124/142B	R32/125	R32/125	R1270/22/152A	R1270/22/152A
NOMINAL COMP. WEIGHT%			23/25/52	7/46/47	60/25/15	50/50	45/55	1.5/87.5/11.0	3/94/3
ALLOWABLE COMP. WEIGHT%			22-24/23-27/50-54	5-9/45-47/45-49	58-62/23-27/14-16	48.5-50.5/49.4-51.5	44-46/54-56	0.5-1.5/87.5-89.5/10-11	2-3/94-96/2-3
BOILING POINT [1]	°F • 1.00 ATM	---	46.4 TO -33.0	-48.8 TO -47.9	-32.4 TO -18.2	-60.1 TO -60.0	-60.3 TO -60.2		
	°C • 1.00 ATM	---	-43.6 TO -36.6	-44.9 TO -44.4	-35.8 TO -27.9	-51.2 TO -51.1	-51.3 TO -51.2		
BOILING POINT RANGE [1]	K	---	7.0	0.5	7.9	0.1	0.1		
VAPOR PHASE CONTAMINANTS: AIR AND OTHER NON-CONDENSABLES	% BY VOLUME • 25°C	5.9	1.5	1.5	1.5	1.5	1.5	1.5	1.5
LIQUID PHASE CONTAMINANTS:									
WATER	PPM BY WEIGHT	5.4	10	10	10	10	10	10	10
ALL OTHER IMPURITIES INCLUDING REFRIGERANTS	% BY WEIGHT	5.1	0.50	0.50	0.50	0.50	0.50	0.50	0.50
HIGH BOILING RESIDUE	% BY VOLUME	5.7	0.01	0.01	0.01	0.01	0.01	0.01	0.01
PARTICULATES/SOLIDS	VISUALLY CLEAN TO PASS	5.8	PASS	PASS	PASS	PASS	PASS	PASS	PASS
ACIDITY	PPM BY WEIGHT	5.6	1.0	1.0	1.0	1.0	1.0	1.0	1.0

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Table 1C. Physical Properties of Azeotropic Blends (500 Series Refrigerants)

	REPORTING UNITS	REFERENCE (SUBCLAUSE)	R500	R502	R503	R507	R508 [3]
CHARACTERISTICS:							
REFRIGERANT COMPONENTS		*	R12/152A	R22/115	R23/13	R125/143A	R23/116
NOMINAL COMP. WEIGHT%			73.8/26.2	48.8/51.2	40.1/59.9	50/50	39/61
ALLOWABLE COMP. WEIGHT%			72.8-74.8/ 25.2-27.2	44.8-52.8/ 47.2-55.2	39-41/ 59-61	49-51/ 49-51	37-41/ 59-63
BOILING POINT [1]	°F @ 1.00 ATM	---	-28.1	-49.7	-127.7	-52.1	-123.5
	°C @ 1.00 ATM	---	-33.4	-45.4	-88.7	-46.7	-86.4
BOILING POINT RANGE [1]	K	---	0.5	0.5	0.5	0.5	0.5
VAPOR PHASE CONTAMINANTS:							
AIR AND OTHER NON-CONDENSABLES	% BY VOLUME 25°C	5.9	1.5	1.5	1.5	1.5	1.5
LIQUID PHASE CONTAMINANTS:							
WATER	PPM BY WEIGHT	5.4	10	10	10	10	10
ALL OTHER IMPURITIES INCLUDING REFRIGERANTS	% BY WEIGHT	5.1	0.50	0.50	0.50	0.50	0.50
HIGH BOILING RESIDUE	% BY VOLUME	5.7	0.05	0.01	0.01	0.01	0.01
PARTICULATES/SOLIDS	VISUALLY CLEAN TO PASS	5.8	PASS	PASS	PASS	PASS	PASS
ACIDITY	PPM BY WEIGHT	5.6	1.0	1.0	1.0	1.0	1.0
CHLORIDES [2]	NO VISIBLE TURBIDITY	5.5	PASS	PASS	PASS	PASS	PASS

[1] BOILING POINTS AND BOILING POINT RANGES, ALTHOUGH NOT REQUIRED, ARE PROVIDED FOR INFORMATIONAL PURPOSES.

[2] RECOGNIZED CHLORIDE LEVEL FOR PASS/FAIL IS 3PPM.

[3] SHADED COLUMNS DENOTE REFRIGERANTS FOR WHICH ANALYTICAL DATA IS NOT AVAILABLE.

Appendix A. References—Normative

Listed here are all standards, handbooks, and other publications essential to the formation and implementation of the standard. All references in this appendix are considered as part of this standard.

ASHRAE Terminology of Heating, Ventilating, Air Conditioning and Refrigeration, American Society of Heating Refrigeration and Air-Conditioning Engineers, 1992, 1791 Tullie Circle NE., Atlanta, GA 30329–2305; U.S.A.

ASHRAE Standard 34–1992, *Number Designation and Safety Classification of Refrigerants*, American Society of Heating Refrigeration and Air-Conditioning Engineers, 1992, 1791 Tullie Circle NE., Atlanta, GA 30329–2305; U.S.A.

Appendix C to ARI Standard 700–1995: Analytical Procedures to ARI Standard 700–1995, Specifications for Fluorocarbon and Other Refrigerants, Air-Conditioning and Refrigeration Institute, 1995, 4301 North Fairfax Drive, Suite 425, Arlington, VA 22203; U.S.A.

Federal Specification for *Fluorocarbon Refrigerants, BB–F–1421–B*, dated March 5, 1992, Office of the Federal Register, National Archives and Records Administration, 1992, 800 North Capitol Street, NW., Washington, D.C. 20402; U.S.A.

■ 11. Appendix A1 to subpart F is added to read as follows:

APPENDIX A1 TO SUBPART F OF PART 82—GENERIC MAXIMUM CONTAMINANT LEVELS

Contaminant	Reporting units
Air and Other Non-condensables.	1.5% by volume @ 25°C (N/A for refrigerants used in low-pressure appliances [1]).
Water	10 ppm by weight 20 ppm by weight (for refrigerants used in low-pressure appliances [1]).
Other Impurities Including Refrigerant.	0.50% by weight.
High boiling residue	0.01% by volume.
Particulates/solids	visually clean to pass.
Acidity	1.0 ppm by weight.
Chlorides (chloride level for pass/fail is 3ppm).	No visible turbidity.

[1] Low-pressure appliances means an appliance that uses a refrigerant with a liquid phase saturation pressure below 45 psia at 104 °F.

BLEND COMPOSITIONS APPLICABLE)

Nominal composition (by weight%)	Allowable composition (by weight%)
Component constitutes 25% or more	± 2.0
Component constitutes less than 25% but greater than 10%	± 1.0
Component constitutes less than or equal to 10%	± 0.5

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Federal Register

Friday,
March 12, 2004

Part III

Department of the Treasury

Community Development Financial Institutions Fund

Change to Notice of Funds Availability; Dun and Bradstreet Data Universal Numbering System (DUNS) Number Requirement; Notices

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Change to Notice of Funds Availability Inviting Applications for the Community Development Financial Institutions Program—Technical Assistance Component: Dun and Bradstreet Data Universal Numbering System (DUNS) Number Requirement

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Change to notice of funds availability ("NOFA") inviting applications for the FY 2003 and FY 2004 funding rounds of the technical assistance component of the Community Development Financial Institutions ("CDFI") Program (incorporating Native American technical assistance): Dun and Bradstreet Data Universal Numbering System (DUNS) number requirement.

SUMMARY: On June 27, 2003, the Office of Management and Budget issued a policy directive requiring all organizations applying for Federal grants or cooperative agreements to obtain and provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their applications. This notice is to announce that the Community Development Financial Institutions Fund (the "Fund") is requiring DUNS numbers for all organizations submitting applications pursuant to the NOFA for the technical assistance component of the CDFI Program (68 FR 5735). If after reviewing an application, the Fund determines that the DUNS number is missing or incomplete, the Fund will notify the Applicant. The Applicant will generally have three (3) business days to provide the requested information. If the Applicant fails to provide the requested information within the three-day deadline, the Fund, in its sole discretion, may reject the application from consideration for a TA or NATA award. All other information and requirements set forth in the February 4, 2003, NOFA for the technical assistance component shall remain effective, as published.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the programmatic requirements for this program, contact the Fund's Program Operations Manager. If you have questions regarding administrative requirements, contact the Fund's Awards Manager. The Program Operations Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–6355, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers.

SUPPLEMENTARY INFORMATION: On June 27, 2003, the Office of Management and Budget (OMB) issued a policy directive to implement the requirement for applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for a new award or renewal of an award under Federal grants or cooperative agreements on or after October 1, 2003 (68 FR 38402). The DUNS number will be required on both paper and electronic applications for Federal financial-assistance and cooperative agreements. OMB has indicated that applicant organizations should verify that they have a DUNS number or take the steps necessary to obtain a DUNS number prior to applying for Federal grants or cooperative agreements. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711. Exemptions to the DUNS number requirement may only be obtained from OMB.

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Dated: March 2, 2004.

Linda G. Davenport,

Deputy Director for Policy and Programs.

[FR Doc. 04–5576 Filed 3–11–04; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Change to Notice of Funds Availability Inviting Applications for the Native American CDFI Assistance Program: Change of Application Deadline; Dun and Bradstreet Data Universal Numbering System (DUNS) Number Requirement

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Change to notice of funds availability ("NOFA") inviting applications for the Round One (FY 2003–2004) and Round Two (FY 2004–2005) funding rounds of the Native American CDFI Assistance ("NACA") Program: change of application deadline and Dun and Bradstreet Data Universal Numbering System (DUNS) number requirement.

SUMMARY: On December 4, 2003, the Community Development Financial Institutions Fund (the "Fund") announced in a NOFA for the Native American CDFI Assistance Program (68 FR 67908) that the deadline for applications for assistance in Round One of the Native American CDFI Assistance Program was March 15, 2004. This notice is to announce that the application deadline for the Round One (FY 2003–2004) funding round of the Native American CDFI Assistance Program has been extended to March 31, 2004. In addition, on June 27, 2003, the Office of Management and Budget issued a policy directive requiring all organizations applying for Federal grants or cooperative agreements to obtain and provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their applications. This notice is to announce that the Community Development Financial Institutions Fund (the "Fund") is requiring DUNS numbers for all organizations submitting applications pursuant to the NOFA for the Native American CDFI Assistance Program (68 FR 67908). If after reviewing an application, the Fund determines that the DUNS number is missing or incomplete, the Fund will notify the Applicant. The Applicant will generally have three (3) business days to provide the requested information. If the Applicant fails to provide the requested information within the three-day deadline, the Fund, in its sole discretion, may reject the application from consideration for a NACA Program award. All other information and requirements set forth in the December 4, 2003, NOFA for the Native American CDFI Assistance Program shall remain effective, as published.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the programmatic requirements for this program, contact the Fund's Native American Initiatives Manager, who can be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–6355, by facsimile at (202) 622–7754. If you have questions regarding administrative requirements, contact the Fund's Grants and Compliance Manager, who can be reached by e-mail at *gmc@cdfi.treas.gov;* by telephone at (202) 622–8226, or by facsimile at (202) 622–9625. These are not toll free numbers. The Native American Initiatives Manager and the Grants and Compliance Manager may be reached by mail at CDFI Fund, 601 13th

Street, NW., Suite 200 South, Washington, DC 20005.

SUPPLEMENTARY INFORMATION: On June 27, 2003, the Office of Management and Budget (OMB) issued a policy directive to implement the requirement for applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for a new award or renewal of an award under Federal grants or cooperative agreements on or after October 1, 2003 (68 FR 38402). The DUNS number will be required on both paper and electronic applications for Federal financial-assistance and cooperative agreements. OMB has indicated that applicant organizations should verify that they have a DUNS number or take the steps necessary to obtain a DUNS number prior to applying for Federal grants or cooperative agreements. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1–866–705–5711. Exemptions to the DUNS number requirement may only be obtained from OMB.

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Dated: March 2, 2004.

Linda G. Davenport,

Deputy Director for Policy and Programs.

[FR Doc. 04–5574 Filed 3–11–04; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Change to Notice of Funds Availability Inviting Applications for the Community Development Financial Institutions Program—Native American CDFI Development Program: Dun and Bradstreet Data Universal Numbering System (DUNS) Number Requirement

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Change to notice of funds availability ("NOFA") inviting applications for the FY 2003 and FY 2004 funding rounds of the Native American CDFI Development ("NACD") Program: Dun and Bradstreet Data Universal Numbering System (DUNS) number requirement.

SUMMARY: On June 27, 2003, the Office of Management and Budget issued a policy directive requiring all organizations applying for Federal grants or cooperative agreements to obtain and provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their applications. This notice is to announce that the Community Development Financial Institutions Fund (the "Fund") is requiring DUNS numbers for all organizations submitting applications pursuant to the NOFA for the Native American CDFI Development Program (68 FR 5731). If after reviewing an application, the Fund determines that the DUNS number is missing or incomplete, the Fund will notify the Applicant. The Applicant will generally have three (3) business days to provide the requested information. If the Applicant fails to provide the requested information within the three-day deadline, the Fund, in its sole discretion, may reject the application from consideration for a NACD Program award. All other information and requirements set forth in the February 4, 2003, NOFA for the Native American CDFI Development Program shall remain effective, as published.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the programmatic requirements for this program, contact the Fund's Native American Initiatives Manager, who can be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–6355, by facsimile at (202) 622–7754. If you have questions regarding administrative requirements, contact the Fund's Grants and Compliance Manager, who can be reached by e-mail at *gmc@cdfi.treas.gov*; by telephone at (202) 622–8226, or by facsimile at (202) 622–9625. These are not toll free numbers. The Native American Initiatives Manager and the Grants and Compliance Manager may be reached by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005.

SUPPLEMENTARY INFORMATION: On June 27, 2003, the Office of Management and Budget (OMB) issued a policy directive to implement the requirement for applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for a new award or renewal of an award under Federal grants or cooperative agreements on or after October 1, 2003 (68 FR 38402). The DUNS number will be required on both paper and electronic applications for Federal financial-assistance and cooperative agreements. OMB has indicated that applicant organizations should verify that they have a DUNS number or take the steps necessary to obtain a DUNS number prior to applying for Federal grants or cooperative agreements. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1–866–705–5711. Exemptions to the DUNS number requirement may only be obtained from OMB.

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Dated: March 2, 2004.

Linda G. Davenport,

Deputy Director for Policy and Programs.

[FR Doc. 04–5575 Filed 3–11–04; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Change to Notice of Funds Availability Inviting Applications for the Bank Enterprise Award Program: Dun and Bradstreet Data Universal Numbering System (DUNS) Number Requirement

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Change to notice of funds availability ("NOFA") inviting applications for the FY 2003 and FY 2004 funding rounds of the Bank Enterprise Award ("BEA") Program: Dun and Bradstreet Data Universal Numbering System (DUNS) number requirement.

SUMMARY: On June 27, 2003, the Office of Management and Budget issued a policy directive requiring all organizations applying for Federal grants or cooperative agreements to obtain and provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their applications. This notice is to announce that the Community Development Financial Institutions Fund (the "Fund") is requiring DUNS numbers for all organizations submitting applications pursuant to the NOFA for the Bank Enterprise Award Program (68 FR 5727). If after reviewing an application, the Fund determines that the DUNS number is missing or incomplete, the Fund will notify the Applicant. The Applicant will generally have three (3) business days to provide the requested information. If the Applicant fails to provide the requested information within the three-day deadline, the Fund, in its sole discretion, may reject the application from consideration for a BEA Program award. All other information and requirements set forth in the February 4, 2003, NOFA for the Bank Enterprise Award Program shall remain effective, as published.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the programmatic requirements for this program, contact the Fund's Depository Institutions Manager, who can be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–6355, by facsimile at (202) 622–7754. If you have questions regarding administrative requirements, contact the Fund's Grants and Compliance Manager, who can be reached by e-mail at *gmc@cdfi.treas.gov;* by telephone at (202) 622–8226, or by facsimile at (202) 622–9625. The Depository Institutions Manager and the Grants and Compliance Manager may be reached by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers.

SUPPLEMENTARY INFORMATION: On June 27, 2003, the Office of Management and Budget (OMB) issued a policy directive to implement the requirement for applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for a new award or renewal of an award under Federal grants or cooperative agreements on or after October 1, 2003 (68 FR 38402). The DUNS number will be required on both paper and electronic applications for Federal financial-assistance and cooperative agreements. OMB has indicated that applicant organizations should verify that they have a DUNS number or take the steps necessary to obtain a DUNS number prior to applying for Federal grants or cooperative agreements. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1–866–705–5711. Exemptions to the DUNS number requirement may only be obtained from OMB.

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Dated: March 2, 2004.

Linda G. Davenport,

Deputy Director for Policy and Programs.

[FR Doc. 04–5573 Filed 3–11–04; 8:45 am]

BILLING CODE 4810–70–P

Federal Register

Friday,
March 12, 2004

Part IV

Department of Transportation

Federal Highway Administration

23 CFR Part 658
Commerical Vehicle Width Exclusive Devices; Final Rule and Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. FHWA–2001–10370]

RIN 2125–AE90

Commercial Vehicle Width Exclusive Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA amends its regulation on truck size and weight by removing Recreational Vehicles (RVs) from consideration as commercial motor vehicles (CMVs) and grants States additional flexibility to deal with certain appurtenances extending from the side of the RVs. These changes allow the States the discretion to regulate the width of RVs and allows RVs to be exempt from any special use over-width permit requirements.

EFFECTIVE DATE: April 12, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Forjan, Office of Freight Management and Operations (202) 366–6817, or Mr. Raymond W. Cuprill, Office of the Chief Counsel (202) 366–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S.DOT Docket Facility, Room PL–401, by using the universal resource locator (URL) *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's Home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara*.

Background

The FHWA published a notice of proposed rulemaking (NPRM) on July 29, 2002 (67 FR 48994), that proposed two separate issues. First, a proposal was made to remove RVs from their treatment as CMVs when en route from manufacturer to sales location, allowing the States to use their discretion to regulate the width. Second, a proposal was made to increase by one inch the distance that non-cargo carrying, width exclusive devices could project from the side of a CMV.

Increase of Width

The FHWA has determined that it is appropriate to issue a supplemental Notice of Proposed Rulemaking (SNPRM) to solicit further public input about the possible effects on highway safety and traffic that may result from the 1-inch increase. There were concerns raised by several respondents to the July 29, 2002, NPRM concerning the proposed 1-inch increase in the allowed width distance exclusion of non-cargo carrying devices. This SNPRM appears elsewhere in today's **Federal Register** and solicits crash statistics, safety studies, and any other information related to the possible effects of such an increase.

Remove RVs From CMV Definition and Clarification of Special Use Permits in Section 658.15

The current definition of a CMV at 23 CFR 658.5 is as follows: "*Commercial motor vehicle.* For purposes of this regulation, a motor vehicle designed or regularly used to carry freight, merchandise, or more than ten passengers, whether loaded or empty, including buses, but not including vehicles used for vanpools." Under this definition when RVs are being moved to the point of customer delivery, as from a manufacturing location to a dealer, or between a dealer and a tradeshow, these vehicles are considered CMVs (the vehicle itself is the merchandise being transported).

The RV manufacturers are currently building awnings into the structure of the RVs to provide additional stability and strength. These awnings come with the vehicle, rather than being an aftermarket or dealer add-on. However, when rolled up in the traveling position, the roll extends up to 6 inches from the side of the unit. Customarily, if the RV has an appurtenance extending beyond 3 inches on each side of the vehicle, the motor carrier would be required to obtain an over-width special permit from the State for an RV moving as a CMV. The special permit would authorize their CMVs to operate in excess of the maximum width limit of 102 inches. However, once a customer takes possession of the RV for the purpose of private or personal use, it is no longer considered a CMV and is not subject to the Federal requirement that States issue over-width permits.

The language proposed in this final rule differs slightly from the language proposed in the NPRM. Since we are issuing an SNPRM for the proposed 1-inch increase in the allowed width distance of non-property carrying devices, this final rules authorizes States to allow RVs with appurtenances extending beyond 3 inches, rather than 4 inches, to operate without a special use over-width permit. In the SNPRM, we propose changing the distance from 3 inches to 4 inches for consistency with the other proposed changes.

In recent years, many States have enacted legislation specifically exempting roll-up awnings from any width requirements for personal use vehicles. The FHWA, like many of the commenters, believes that, for the short time and distance (relative to its use over the lifetime of the vehicle) an RV is now considered a CMV, the RV should be exempted from any special use over-width permit requirements.

Therefore, this final rule removes RVs from the definition of a commercial motor vehicle, and clarifies the language in § 658.15, regarding special use permits for RVs with safety and/or non-cargo carrying appurtenances extending beyond 3 inches from the side of the vehicle to operate without a special use over-width permit.

Discussion of Comments

We received eight sets of comments to the docket. Of the eight commenters, two were from State transportation departments (Illinois Department of Transportation, and Iowa Department of Transportation); one from a law enforcement entity (Department of California Highway Patrol); one comment from the Vermont Department of Motor Vehicles; two comments from associations (the Truck Trailer Manufacturers Association (TTMA) and the Recreational Vehicle Industry Association (RVIA)); one comment from a safety organization (Advocates for Highway and Auto Safety (Advocates)); and one comment from a manufacturer (Tire Pressure Control International Ltd). The majority of the commenters were in favor of the proposed changes.

The comments from the California Highway Patrol, the Vermont DMV, and the Iowa DOT favored the removal of RVs from consideration as a commercial motor vehicle (CMV). The reasons given included: The inefficient use of the State's resources and an administrative burden to process a commercial over-width permit for RVs; no evidence of safety problems as a result of an awning or appurtenance; and the 2000 Fatal Accident Reporting System (FARS)

data[1] that indicated fatal vehicle accidents involving RVs were statistically insignificant.

The Illinois DOT opposed the proposed change concerning RVs, focusing on the approximately 14,000 miles of local highways in its State that presently have 9-foot driving lanes. Its concern was that trucks and RVs 9 feet 2 inches wide could legally operate on highways 9 feet wide. However, the FHWA is removing RVs from consideration as CMVs while on the National Network (NN) which typically have wider lanes. States are still free to regulate the dimensions of vehicles on their own local highways.

The FHWA contends that the time needed to deliver a new RV is insignificant when compared to the lifetime of the RV once privately owned. Additionally, it is reasonable that the manufacturers would take the appropriate routes and exercise appropriate caution when delivering expensive RVs to dealers and trade shows. RVs are designed for personal rather than commercial use. Private individuals do the vast majority of the driving once the RV is sold to a retail customer, making it overwhelmingly a personal vehicle for use on the National Network and other State and county roads.

The RVIA fully supported the removal of RVs from consideration as CMVs. It viewed allowing RVs equipped with incidental appurtenances that do not pose a safety hazard as a warranted, positive change. It also noted that the proposed exclusion would eliminate an overwide permitting process. It believed that the proposal would:

- Have a *de minimus* effect as there are only a small number of units involved when compared to the far larger number of trucks and buses traveling on U.S. roads;
- Remove an administrative burden on the States and the industry;
- Not threaten the State highway and bridge infrastructure;
- Not present safety concerns; and
- Help reduce State and industry compliance costs.

The RVIA also cited (FARS) data indicating that only 101 motorhomes were involved in fatal accidents in 2001. The data did not specify if these RVs were operating as CMVs, or private vehicles at the time of the accident. Furthermore, the RVIA indicated that only 213,200 RVs, the type that could potentially exceed 102 inches wide, were transported in 2001. The RVIA believed the FHWA's proposal to exclude RVs from consideration as CMVs was warranted by sound public policy and the special factual circumstances listed above.

The Advocates stated that the Congress has not mandated that RVs be exempted, but has only recommended agency evaluation of such an exemption. The Advocates further commented that the report language does not contemplate simply a lifting of the current restrictions on RV deliveries in favor of no Federal role. Rather, the Advocates asserted that the report language unmistakably directs the agency to allow such transport only with reasonable safety limitations.

The FHWA recognizes that RVs are designed and manufactured for personal use and are not considered CMVs when operated in that capacity. The RVIA reported that in 1999, the average number of commercial miles driven per RV was 1,213 miles by those manufacturers with single plants and only 689 commercial miles for those that have multiple plants nationwide. In contrast, large trucks, according to 1999 Bureau of Transportation Statistics information, logged over 202,688 million commercial miles. As noted, in 2001, 213,200 RVs equipped with the widest RV appurtenance (awning) were shipped to dealers. The awning is located on the outside, top of the vehicle, 10 to 12 feet above the surface of the road which reduces most safety concerns. Additionally, the retracted awning, which extends 6 inches from the side of the vehicle, still remains inside the outmost perimeter of the rear view mirrors. The FHWA believes that RVs do not pose potential safety hazard and therefore, amends its regulation on truck size and weight by removing RVs from consideration as CMVs.

Pressure Control Systems

Tire Pressure Control International Ltd. Of Edmonton, Alberta, Canada suggested the FHWA use this rulemaking as an opportunity to add "Tire Pressure Control and Monitoring Devices" to the exclusion list identified in "Appendix D to Part 658—Devices That are Excluded From Measurement Of the Length or Width of a Commercial Motor Vehicle,"—Item 3. The FHWA has determined that this request is beyond the scope of this rulemaking and may consider this issue in a future rulemaking.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and U.S. DOT Regulatory Policies and Procedures

We have determined that this final rule is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal and that there will not be any additional cost incurred by any affected group as a result of this proposal. This rulemaking removes RVs from the definition of commercial motor vehicle and authorizes States to allow RVs with safety and/or non-cargo carrying appurtenances extending beyond 3 inches from the side of a vehicle to operate without a special use over-width permit. Therefore, a regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this final rule on small entities and has determined that this action will not have a significant economic impact on a substantial number of small entities. The issue discussed in this final rule involves the manner in which States are to treat recreational vehicles. In this instance the final rule would reduce the regulatory requirements with which commercial vehicle drivers must comply. For these reasons, the FHWA certifies that this final action will not have a significant economic effect on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. Removing RVs from the definition of commercial motor vehicle does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This final rule simply removes a Federal requirement and returns the authority to enforce various requirements to the States. This final rule does not affect the State's ability to discharge traditional State government functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program, Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on

[1] The FARS is a database maintained by the National Highway Traffic Safety Administration. More information is available electronically at: *http://www-fars.nhtsa.dot.gov.*

Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this final rule does not contain collection of information requirements for the purposes of the PRA.

Unfunded Mandates Reform Act of 1995

This final rule will not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). This final rule will reduce the regulatory requirements that commercial vehicle operators must comply with, thus reducing their operating cost.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, protection of Children from Environmental Health Risks and Safety Risks. This rule is not economically significant and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The FHWA has analyzed this action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that this action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs in Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that this is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this section with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grants Program—transportation, Highways and roads, Motor carrier—size and weight.

Issued on: March 8, 2004.

Mary E. Peters,

Federal Highway Administrator.

■ In consideration of the foregoing, the FHWA amends 23 CFR part 658 as follows:

PART 658—TRUCK SIZE AND WEIGHT; ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS

■ 1. The authority citation for part 658 continues to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111, 31112, and 31114; 49 CFR 1.48(b)(19) and (c)(19).

■ 2. Amend § 658.5 by revising the term "commercial motor vehicle" to read as follows:

§ 658.5 Definitions.

* * * * *

Commercial motor vehicle. For purposes of this regulation, a motor vehicle designed or regularly used to carry freight, merchandise, or more than ten passengers, whether loaded or empty, including buses, but not including vehicles used for vanpools, or vehicles built and operated as recreational vehicles.

* * * * *

■ 3. Revise § 658.15(c) to read as follows:

§ 658.15 Width.

* * * * *

(c) Notwithstanding the provisions of this section or any other provision of law, the following are applicable:

(1) A State may grant special use permits to motor vehicles, including manufactured housing, that exceed 102 inches in width; and

(2) A State may allow recreational vehicles with safety and/or non-cargo carrying appurtenances extending beyond 3 inches from the side of the vehicle to operate without a special use over-width permit.

[FR Doc. 04–5634 Filed 3–11–04; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. FHWA–2003–16164]

RIN 2125–AE99

Commercial Vehicle Width Exclusive Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Supplemental notice of proposed rulemaking; request for comments.

SUMMARY: The FHWA proposed in an earlier notice of proposed rulemaking (NPRM) to amend its regulation of truck size and weight by increasing the distance that width exclusive devices could extend beyond the sides of commercial motor vehicles by one inch. However, due to issues raised by the comments, the FHWA decided to publish this supplemental notice of proposed rulemaking (SNPRM) to solicit comments on revised regulatory language proposing to increase by one inch the width exclusive devices and to seek public input on crash statistics, safety studies, or other information related to such an increase.

DATES: Comments must be received by May 11, 2004.

ADDRESSES: Mail or hand deliver comments for the docket number that appears in the heading of this document to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001, submit electronically at *http://dms.dot.gov/submit*, or fax comments to (202) 493–2251. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgement page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments received into any of our dockets by name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78) or you may visit *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Forjan, Office of Freight Management and Operations (202) 366–6817, or Mr. Raymond W. Cuprill, Office of the Chief Counsel (202) 366–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dms.dot.gov/submit*. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCH)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's Home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara*.

Background

In October 1999, the Land Transportation Standards Subcommittee (LTSS), created by the North American Free Trade Agreement (NAFTA) Working Group 2, issued a discussion paper. The paper, "Highway Safety Performance Criteria in Support of Vehicle Weight and Dimension Regulations" (a copy of which is included in this docket), contained candidate vehicle performance criteria and recommended threshold values. The primary objective of Working Group 2 was to seek areas within the broad range of vehicle weights and dimensions that could be harmonized among the participating countries (Mexico, Canada, and the United States).

The working group's discussion paper included the definition of "overall width" and proposed a standard for use by the three countries. This definition described width exclusive devices or appurtenances at the sides of a truck, tractor, semitrailer, or trailer whose function is related to the safe operation of the vehicle. Such devices may extend no more than 10 centimeters beyond the side of the vehicle. (Using accepted conversion factors, 10 centimeters equates to 3.937 inches).

In a final rule published March 29, 2002 (67 FR 15102), the FHWA said it was preparing to issue an NPRM to consider an extension in the distance that non-property carrying devices could protrude from the sides of commercial motor vehicles operating on the National Network [1] (NN) of highways in the United States from three to four inches. The FHWA published an NPRM that proposed extending the distance that non-property carrying devices could protrude from the side of commercial motor vehicles from 3 to 4 inches under FHWA Docket No. 2001–10370 on July 29, 2002 (67 FR 48994). That NPRM also included two proposals concerning recreational vehicles (RVs). The first proposal concerned excluding RVs en route from a manufacturer to a sales location from the definition of commercial motor vehicle (as described in 23 CFR 658.5), leaving the regulation of width solely to the States. The second proposal would have authorized States to allow RVs with safety and/or non-cargo carrying appurtenances extending beyond 4 inches (rather than 3 inches) from the side of the vehicle to operate without a special use over-width permit.

Because of concerns raised by several respondents to the July 29, 2002, NPRM concerning the proposed 1-inch increase in the allowed width of excluded devices, the FHWA determined that it is appropriate to issue this SNPRM (1) to solicit further public comment on our proposal to expand by 1-inch the allowance for non-cargo carrying width exclusive devices; (2) to seek additional public feedback about the possible effects on highway safety and traffic that may result from this 1-inch increase; and (3) to solicit public comment on proposed revised language. A new docket number (2003–16164) is assigned to this rulemaking.

The final rule regarding RVs is published elsewhere in today's **Federal Register.** For consistency with this SNPRM, the final rule authorizes States

[1] As defined in 23 CFR part 658. The National Network is the composite of the individual network of highways in each State on which vehicles authorized by the provisions of the STAA are allowed to operate. The network in each State includes the Interstate System, exclusive of those portions excepted under Section 658.11(f) or deleted under Section 658.11(d), and those portions of the Federal-aid Primary System in existence on June 1, 1991, set out by the FHWA in appendix A to this part.

to allow RVs with safety and/or non-cargo carrying appurtenances extending beyond 3 inches (rather than 4 inches as proposed in the NPRM) from the side of the vehicle to operate with a special over-width permit.

Comments to the NPRM

Five of the eight comments received addressed the proposal to increase from three to four inches the distance that width exclusive devices could project from the side of commercial motor vehicles subject to Federal width limits. The Truck Trailer Manufacturers Association (TTMA) agreed with the proposal and favored it as a step toward harmonizing size and weight limits for the North American Free Trade Agreement (NAFTA) countries (Mexico, Canada and the United States). The TTMA did not believe it would present any operational issues and would actually allow additional safety devices to be incorporated into trailer designs.

The Iowa Department of Transportation supported increasing the distance that width exclusive devices could project from the side of a commercial motor vehicle from three to four inches. It said that over 95 percent of the primary and secondary roads in the State are either 11 or 12 feet wide. According to the State, this would allow sufficient clearance for width exclusive devices to extend up to 4 inches beyond the sides of commercial motor vehicles.

The California Highway Patrol did not oppose a one-inch increase in the length of width exclusive devices, but was concerned that "continuing to increase the width of commercial vehicles will eventually cause safety concerns."

The Illinois Department of Transportation opposed the increase on narrow roadways and believed that the excluded devices could be designed to fit within the current 3-inch width exclusion limits.

The Advocates for Highway and Auto Safety (Advocates) provided the most extensive statement of concern about the proposed change. The Advocates stated that, "there is no foundation in the rulemaking record established by the FHWA on the basis of safety considerations to extend the overall widths of commercial motor vehicles * * *," and added that "the agency has an affirmative obligation to make an explicit safety finding about increases in the widths of commercial motor vehicles that exceed the figures established in prior regulatory policy for additional safety and energy conservation devices that extend beyond 102 inches * * *." It also said that, "the FHWA has made no safety finding of any kind in this rulemaking about the consequences of further widening of commercial motor vehicles by permitting additional extension to either side of safety and energy conservation devices * * *" but instead, "* * * the agency simply invokes a need to harmonize the widths of commercial motor vehicles in order to advance the purposes of the North American Free Trade Agreement (NAFTA)." Finally, the Advocates wrote that "[i]t is crystal clear that Congress expects the agency to make an explicit safety finding whenever it exercises its discretion to permit or modify the size of safety or energy conservation devices that exceed the statutory maximum width of 102 inches for commercial vehicles * * *," and that, "[a]lthough the addition of an inch of width for exclusive devices on each side of a commercial vehicle may appear to be a *de minimis* change, it in fact can have safety consequences for commercial motor vehicles, especially those with long trailers, offtracking on short radius curves on these substandard roads."

The purpose of this SNPRM, in addition to seeking comments on the revised language, is to solicit additional information from transportation stakeholders, government officials at all levels, and the general public on (1) the issues raised by the Advocates and other respondents to the NPRM, and (2) the effects of increasing the distance that non-property carrying devices may protrude from the sides of commercial motor vehicles.

Request For Information

Following its analysis of comments, the FHWA sought to locate sources of information that would document the experience of others in (1) undertaking similar changes to vehicle width exclusion standards or (2) monitoring and evaluating vehicle crashes caused by contact with width exclusive devices. Sources were found to be very limited. As a result, the FHWA seeks additional public input on this topic. It asks respondents to this SNPRM to also consider the following in their review and comments:

1. *Safety effects of a width exclusion increase on the NN and reasonable access routes.* The Transportation Research Board (TRB), in its Special Report 267,[2] "Regulation of Weights, Lengths, and Widths of Commercial Motor Vehicles," 2002, referenced a 1941 study by the Interstate Commerce Commission (ICC) which sought to determine whether allowing greater size and weight would be compatible with highway safety. The TRB report said that:

> Studies of Federal policy conducted since 1941 have reached conclusions generally similar to the ICC's cautiously worded statement: available evidence does not show that size and weight, within the range of existing practices, are highly significant safety factors; lack of data may have prevented observation of hazards; and therefore research and monitoring should accompany regulation. It is a source of frustration that 60 years of research has not yielded definitive conclusions on these questions.

Another TRB publication, Special Report 223,[3] "Providing Access for Large Trucks," 1989, stated as follows on page 139:

> Although there appear to be no definitive guidelines for appropriate lane widths for STAA vehicles, two observations can be made. First, the modest increase of 6 inches in vehicle width [from 96 to 102 inches] does not appear to have introduced any significant decrement in the safe operation of trucks on the highways. Second, minimum lane widths of 11 feet, and even wider on roads with sharp curves, appear to be desirable on roads with high volumes of commercial traffic, whether the trucks be 96 or 102 inches wide.

As provided in 23 CFR 658.9(b)(5), NN routes must have lanes designed to be at least 12 feet wide or otherwise consistent with highway safety to be included within this category of roadways.

Federal exclusion of devices from the measurement of a commercial motor vehicle's width applies only on the NN, or those vehicles using reasonable access routes for purposes other than access between the NN and terminals and facilities for food, fuel, repairs, and rest. Reasonable access routes are those between the NN and terminals and facilities for food, fuel, rest or repairs where States have determined that vehicles subject to Federal width requirements may safely operate. States are not required to allow such routes to be used for through traffic, but may do so if they wish.

Respondents to this SNPRM should consider any information concerning the effect on safety on the NN and reasonable access routes of a one-inch increase in the allowable width of devices excluded from the measurement of the width of commercial motor vehicles (CMVs).

2. *Not all excluded devices are inch-restricted.* Current regulations at 23 CFR 658.16(b)(2)(ii) exclude from the measurement of vehicle width on the

[2] A copy of this publication may be obtained from TRB by telephone (202) 334–3213, facsimile (202) 334–2519, mail at TRB, 500 Fifth Street, NW., Washington, DC 20001, e-mail: *TRBSales@nas.edu*, or online at *http://www.trb.org* and select "online documents."

[3] Ibid.

National Network (NN) and reasonable access routes all non-property-carrying devices, or components thereof, that do not extend more than 3 inches beyond each side of 102-inch wide commercial motor vehicle. However, rear-view mirrors, turn signal lamps, handholds for cab entry/egress, splash and spray suppressant devices, and load induced tire bulge are excluded under 23 CFR 658.16(b)(1) from the maximum width standard. It was explained in the March 29, 2002 (67 FR 15102), final rule that these devices had to extend far enough to serve their intended purpose. Thus, some excluded devices are already allowed to extend beyond the current 3-inch limit.

Respondents to the SNPRM should consider how extending the width limit for devices excluded from the measurement of CMVs by one inch would affect safety differently than width devices, which are unrestricted as to length.

3. *States currently issue permits for over-wide vehicles.* States may choose to grant special use permits to motor carriers when their vehicles or cargoes exceed 102 inches in width. As a result, States allow vehicles to exceed Federal width limits on the NN under conditions they impose, provided only that the States issue actual permits for these over-wide movements. In the absence of a Federal rule requiring States to allow NAFTA vehicles with up to a 4-inch width exclusion to operate on the NN, operators of vehicles containing the NAFTA-width excluded devices could apply for overwidth permits in each State where they might travel. It would be up to each State to expand their permit procedures to include carriers operating vehicles equipped with 4-inch width-exclusive devices.

Respondents to this SNPRM should consider the likelihood that their States would issue overwide load permits to NAFTA vehicles equipped with excluded devices protruding no more than 4 inches beyond the sides, and how this issuance, if undertaken, would alter current permitting and motor carrier routing practices.

4. *Non-safety effects of a width exclusion increase.* In considering the effects of allowing devices to extend an extra inch beyond the sides of vehicles, we ask respondents to consider what specific ways this change might also influence traffic flow and congestion as well as safety. For example, lane widths affect the amount of separation between vehicles as well as the potential encroachment of a vehicle into an adjoining lane on turns. The FHWA solicits information about how allowing an increased width exclusion might influence these particular issues.

Conclusion

This SNPRM seeks to be responsive to the issues raised by the respondents to the NPRM. It offers some additional considerations regarding the factors that might affect the safety of allowing devices already excluded from the measurement of commercial motor vehicle width to extend an additional inch on each side of such a vehicle. The public is encouraged to offer responses to these and other issues of concern.

Please note that the amended language of 23 CFR Part 658 that is proposed below differs slightly from the language presented in the NPRM. The NPRM contained revised language in section 658.16, "Exclusions from length and width determinations," that provided for the exclusion of devices that do not extend more than 4 inches beyond each side or the rear of the vehicle * * *." This SNPRM provides for a 4-inch width exclusion, but retains the current 3-inch exclusion for moveable devices to enclose the cargo area of flatbed semitrailers or trailers, usually called tarping systems, that extend off the back of the vehicle when the vehicle is in operation. It was never the intention of the NPRM to propose a 1-inch increase for devices other than width exclusive devices. Rear-mounted excluded devices to enclose the cargo area of flatbed semitrailers or trailers would still have to adhere to the current 3-inch limit.

Similarly, in the NPRM, Appendix D, paragraph 3(i), called for a 4-inch exclusion for "* * * load tarping systems where no component part extends farther than 4 inches from the sides or back of the vehicle when the vehicle is in operation." Again, it was not the intent of the FHWA to provide for a 1-inch increase for devices other than width exclusive devices. Accordingly, the 3-inch provision is retained in the SNPRM for rear-mounted excluded devices.

The language in the NPRM dealing with the treatment of Recreational Vehicles (RVs) in Section 658.5, "Definitions," and Section 658.15, "Width," is now included in the separate RV final rule printed elsewhere in today's **Federal Register**. The final rule removes RVs from the definition of commercial motor vehicle and authorizes States to allow RVs with appurtenances extending beyond 3 inches to operate without a special use over-width permit. In this SNPRM, we propose changing the distance from 3 inches to 4 inches for consistency with the other changes we are proposing.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and U.S. DOT Regulatory Policies and Procedures

We have determined that this proposed action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal, since it would not require any additional action on the part of commercial vehicle operators or States. No additional action by commercial vehicle operators or States is necessary because this proposed rule would allow an additional inch on each side of a commercial motor vehicle for non-property carrying devices. Therefore, a regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities. The proposal would reduce the regulatory requirements with which commercial vehicle drivers must comply by reducing their need to apply for State overwidth permits. For this reason, the FHWA certifies that this proposed action would not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined that this proposed action would not have a substantial direct effect or significant federalism implications on States that would limit the policymaking discretion of the States.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program, Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*),

Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulation. The FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). What is being proposed would reduce the regulatory requirements with which commercial motor vehicle operators must comply.

Executive Order 13045 (Protection of Children)

We have analyzed this proposal under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposal is not economically significant and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

We have analyzed this proposed action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and have determined that this proposed action would not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that this proposal is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grants Program-transportation, Highways and roads, Motor carrier—size and weight.

Issued on: March 8, 2004.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend 23 CFR Part 658 as follows:

PART 658—TRUCK SIZE AND WEIGHT; ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS

1. The authority citation for part 658 continues to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111, 31112, and 31114; 49 CFR 1.48(b)(19) and (c)(19).

2. Revise § 658.15(c) to read as follows:

§ 658.15 Width.

* * * * *

(c) Notwithstanding the provisions of this section or any other provision of law, the following are applicable:

(1) A State may grant special use permits to motor vehicles, including manufactured housing, that exceed 102 inches in width; and

(2) A State may allow recreational vehicles with safety and/or non-cargo carrying appurtenances extending beyond 4 inches from the side of the vehicle to operate without a special use over-width permit.

3. Revise Section 658.16(b)(2)(ii) to read as follows:

§ 658.16 Exclusions from length and width determinations.

* * * * *

(b)(2)(ii) That do not extend more than 4 inches beyond each side of the vehicle, or 3 inches beyond the rear of the vehicle, or;

* * * * *

4. Amend appendix D to part 658 by revising item number 3 introductory text and paragraph (i) in item 3 to read as follows:

Appendix D to Part 658—Devices That Are Excluded From Measurement of the Length or Width of a Commercial Motor Vehicle

* * * * *

3. Devices excluded from width determination, not to exceed 4 inches from the side of the vehicle including, but not limited to, the following:

* * * * *

(i) Movable devices to enclose the cargo area of flatbed semitrailers or trailers, usually called tarping systems, where no component part of the system extends more than 4 inches from the sides, or 3 inches from the back, of the vehicle when the vehicle is in operation. This exclusion applies to all component parts of tarping systems, including the transverse structure at the front of the vehicle to which the sliding walls and roof of the tarp mechanism are attached, provided the structure is not also intended or designed to comply with 49 CFR 393.106, which requires a headerboard strong enough to prevent cargo from penetrating or crushing the cab; the transverse structure may be up to 110 inches wide if properly centered so that neither side extends more than 4 inches beyond the structural edge of the vehicle. Also excluded from measurement are side rails running the length of the vehicle and rear doors, provided the only function of the latter, like that of the transverse structure at the front of the vehicle, is to seal the cargo area and anchor the sliding walls and roof. On the other hand, a headerboard designed to comply with 49 CFR 393.106 is load bearing and thus limited to 102 inches in width. However, the "wings" designed to close the gap between such a headerboard and the movable walls and roof of a tarping system are width exclusive, provided they are add-on pieces designed to bear only the load of the tarping system itself and not integral parts of the load-bearing headerboard structure;

* * * * *

[FR Doc. 04–5635 Filed 3–11–04; 8:45 am]

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Federal Register

Friday,
March 12, 2004

Part V

Office of Personnel Management

2003 Nonforeign Area Cost-of-Living Allowance Survey Report; Alaska and Washington, DC, Areas; Notice

OFFICE OF PERSONNEL MANAGEMENT

2003 Nonforeign Area Cost-of-Living Allowance Survey Report: Alaska and Washington, DC, Areas

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice publishes the "2003 Nonforeign Area Cost-of-Living Allowance Survey Report: Alaska and Washington, DC, Areas." The Federal Government uses the results of these surveys to set cost-of-living allowance (COLA) rates for General Schedule, U.S. Postal Service, and certain other Federal employees in Alaska, Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. This report contains the results of the COLA surveys that the Office of Personnel Management conducted in Alaska and the Washington, DC, area during the spring and summer of 2003.

DATES: Comments on this report must be received on or before July 12, 2004.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200; fax (202) 606–4264; or e-mail: *COLA@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Donald L. Paquin, (202) 606–2838; fax: (202) 606–4264; or e-mail: *COLA@opm.gov.*

SUPPLEMENTARY INFORMATION: Section 591.299 of title 5, Code of Federal Regulations, requires the Office of Personnel Management (OPM) to publish nonforeign area cost-of-living allowance (COLA) survey summary reports in the **Federal Register**. We are publishing the complete "2003 Nonforeign Area Cost-of-Living Allowance Survey Report: Alaska and Washington, DC, Areas"with this notice. This report contains the results of the COLA surveys OPM conducted in Anchorage, Fairbanks, and Juneau, Alaska, and in the Washington, DC, area during the spring and summer of 2003.

Survey Results

Using an index scale with the Washington, DC, area living costs equal to 100, OPM computed index values of relative prices in the Anchorage, Fairbanks, Juneau, and the Rest of the State of Alaska COLA areas. Then OPM added an adjustment factor of 7.0 to the Anchorage price index and 9.0 to the Fairbanks, Juneau, and Rest of the State of Alaska price indexes and rounded the results to the nearest whole percentage point. The results show that the existing COLA rates for Anchorage, Fairbanks, and Juneau (25 percent) are above the levels indicated by the 2003 survey. However, pursuant to the settlement agreement in *Caraballo, et al. v. United States,* No. 1997–0027 (D.V.I.), August 17, 2000, OPM will not reduce COLA rates in any nonforeign area until the effective date of the final rule implementing the results of the Pacific surveys that are planned for 2004. OPM anticipates that the effective date of that final rule will be in mid-2005 or later. At that time, OPM will reduce any COLA rates where reductions are warranted but not by more than 1 percent per year, as prescribed in 5 CFR 591.228(c).

Office of Personnel Management.

Kay Coles James,

Director.

2003 Nonforeign Area Cost-of-Living Allowance Survey Report: Alaska and Washington, DC, Areas

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Executive Summary

The Government pays cost-of-living allowances (COLAs) to Federal employees in nonforeign areas in consideration of living costs significantly higher than those in the Washington, DC, area. The Office of Personnel Management (OPM) conducts living-cost surveys to set the COLA rates. The methodology for conducting these surveys is prescribed in regulation at subpart B of part 591 of title 5 of the Code of Federal Regulations.

This report provides the results of the COLA surveys that OPM conducted in the spring and summer of 2003 in Anchorage, Fairbanks, and Juneau, Alaska, and the Washington, DC, area. The report details OPM's comparison of living costs in these Alaska areas, as well as the Rest of the State of Alaska, with living costs in the Washington, DC, area.

For the surveys, OPM contacted about 900 outlets and collected approximately 4,600 prices on more than 250 items representing typical consumer purchases. OPM then combined the data using consumer expenditure information developed by the Bureau of Labor Statistics. The final results are a series of living-cost indexes, shown in Table 1, that compare living costs in the surveyed areas to those in the Washington, DC, area. The index for the DC area (not shown) is 100.00 because it is, by law, the reference area. The living-cost indexes shown in Table 1 include the adjustment factor prescribed at 5 CFR 591.227.

TABLE 1.—FINAL LIVING-COST COMPARISON INDEXES

Allowance Area	Index
Anchorage	112.63
Fairbanks	115.26
Juneau	118.34
Rest of the State of Alaska	134.80

1. Introduction

1.1 Report Objectives

This report provides the results of the 2003 (*i.e.,* "Alaska") nonforeign area cost-of-living allowance (COLA) surveys

that the Office of Personnel Management (OPM) conducted in the spring and summer of 2003. (Appendix 1 lists prior survey reports and their publication dates.) In addition to providing these results, this report describes how OPM prepared for and conducted the survey and how it analyzed the results. The results show comparative living-cost differences between the Alaska areas, *i.e.*, Anchorage, Fairbanks, Juneau, and the Rest of the State of Alaska, and the Washington, DC, area. By law, Washington, DC, is the base or "reference" area for the COLA program.

2. Preparing for the Survey

2.1 COLA Advisory Committees

Before the Alaska surveys, OPM established COLA Advisory Committees (CACs) in Anchorage, Fairbanks, and Juneau. The settlement of *Caraballo, et al.* v. *United States*, No. 1997–0027 (D.V.I.), August 17, 2000, provides for employee involvement in the administration of the COLA program, and in the previous two surveys under the COLA Partnership Pilot Project, OPM found it valuable to involve employee and agency representatives in planning and conducting the survey and reviewing the survey results.

Each CAC is composed of approximately 12 agency and employee representatives from the survey area and 2 representatives from OPM. The CACs' functions include:

—Advising and assisting OPM in planning COLA surveys;
—Providing or arranging for data collection observers during COLA surveys;
—Advising and assisting OPM in reviewing survey data;
—Advising OPM on its COLA program administration, including survey methodology;
—Assisting OPM in disseminating information to affected employees about the surveys and the COLA program; and
—Advising OPM on special situations or conditions, such as hurricanes and earthquakes, as they relate to OPM's authority to conduct interim surveys or implement some other change in response to conditions caused by a natural disaster or similar emergency.

2.2 Pre-Survey Meetings

To help OPM prepare for the COLA surveys, the CACs held 3-day meetings in Anchorage, Fairbanks, and Juneau. These were joint meetings of the CAC, Survey Implementation Committee (SIC), and Technical Advisory Committee (TAC). The SIC and the TAC were established pursuant to the *Carballo* settlement. The SIC advises and assists OPM in the implementation of the new COLA methodology to which the parties agreed. There are seven members on the SIC—five plaintiffs' representatives from the COLA areas and two OPM representatives. The TAC has three members, economists who have expertise in living-cost measurement. The TAC performs research for and advises the members of the SIC.

The CACs, SIC, and TAC reviewed the preliminary outlet and item that OPM had developed for the surveys. The committee members researched the outlets and availability and appropriateness of the items in each area and made recommendations to OPM concerning the survey. OPM incorporated these recommendations into its survey design.

OPM found the work of the CACs, SIC, and TAC in Alaska to be extremely helpful and informative. The SIC and TAC's knowledge of the *Caraballo* settlement, the new COLA methodology, and the economic concepts underlying that methodology combined with the CAC's knowledge of the local area, the popularity of items and outlets, and other information about the COLA area were invaluable in helping OPM plan the survey. These joint CAC, SIC, and TAC meetings were particularly important because, under the *Caraballo* settlement, the SIC and TAC dissolve after the first 3 years of COLA surveys.

2.3 Survey Item Selection

As described in Sections 2.1 and 2.2, OPM consulted with the CACs, SIC, and TAC as it selected survey items. OPM identified items to reflect a wide array of items consumers typically purchase. To determine what consumers purchase, OPM used the Bureau of Labor Statistics (BLS) 2000 Consumer Expenditure Survey (CES). OPM aggregated CES expenditures into the following nine major expenditure groups (MEGs):

—Food;
—Shelter and Utilities;
—Household Furnishings and Supplies;
—Apparel;
—Transportation;
—Medical;
—Recreation;
—Education and Communication;
—Miscellaneous;

OPM further subdivided each MEG into primary expenditure groups (PEGs). In all, there were 45 PEGs. For example, OPM subdivided Food into the following nine PEGs:

—Cereals and Bakery Products;
—Meats, Poultry, Fish, and Eggs;
—Dairy Products;
—Fresh Fruits and Vegetables;
—Processed Foods;
—Other Food at Home;
—Nonalcoholic Beverages;
—Food Away from Home;
—Alcoholic Beverages.

To select survey items, OPM chose a sufficient number of items to represent each PEG and reduce overall price index variability. To do this, OPM applied the following guidelines. Each survey item should be:

—Relatively important (*i.e.*, represent a fairly large expenditure) within the PEG;
—Relatively easy to find in both COLA and DC areas;
—Relatively common, *i.e.*, what people typically buy;
—Relatively stable over time, *e.g.*, not a fad item; and
—Subject to similar supply and demand functions.

In all, OPM selected 269 non-housing items to survey. Appendix 2 shows how OPM organized the CES data into MEGs and PEGs, identifies the Detailed Expenditure Categories (DECs) for which OPM chose survey items, and shows estimated DC area middle income annual consumer expenditures for each DEC and higher level of aggregations.

Appendix 3 lists the non-housing items that OPM surveyed and their descriptions. Each of these items is specifically described with an exact brand, model, type, and size whenever practical. Thus, OPM priced exactly the same items or the same quality and quantity of items in both the COLA and DC areas. For example, OPM priced a 10.5-ounce can of Campbell's Vegetable Soup in both the COLA and DC areas because it is typical of canned soups and consumers commonly purchase it.

2.3.1 Special Considerations

Health Insurance: It was not practical to compare the prices of exactly the same quality and quantity of health benefits insurance between the COLA and Washington, DC, areas because the same array of plans are not offered in each area and a significant proportion of Federal employees in both the COLA and DC areas subscribe to plans that are not available nationwide. To compare the employee health benefit premium of these often highly different plans, OPM would have to adjust for differences in benefits and coverage. Research that the parties conducted prior to the *Caraballo* settlement indicated that this would not be feasible.

Therefore, OPM used the non-Postal Service employee's share of the Federal Employees Health Benefits premiums by

plan for each plan offered in each area and obtained from OPM's Central Personnel Data File (CPDF) the number of Federal employees enrolled in each plan. As described in Section 4.2.2 below, OPM used these data to compute the average "price" of health benefits insurance for Federal employees in the COLA and DC areas.

Housing: For housing items, OPM surveyed rental rates for specific kinds or classes of housing and collected detailed information about each housing unit. OPM surveyed the following classes of housing:

—Four bedroom, single family unit, not to exceed 3200 square feet;
—Three bedroom, single family unit, not to exceed 2600 square feet;
—Two bedroom, single family unit, not to exceed 2200 square feet;
—Three bedroom apartment unit, not to exceed 2000 square feet;
—Two bedroom apartment unit, not to exceed 1800 square feet;
—One bedroom apartment unit, not to exceed 1400 square feet.

Appendix 4 lists the types of detailed information that OPM collected. OPM did not collect homeowner data, such as mortgage payments, maintenance expenses, or insurance. Under the *Caraballo* settlement, the parties agreed to adopt a rental equivalence approach similar to the one BLS uses for the Consumer Price Index. Rental equivalence compares the shelter value (rental value) of owned homes rather than total owner costs because the latter are influenced by the investment value of the home. (*i.e.*, influenced by what homeowners hope to realize as a profit when they sell their homes). As a rule, living-cost surveys do not compare how consumers invest their money.

In the 2003 survey, OPM surveyed rents and used that as a surrogate for rental equivalence. In the coming year, OPM plans to conduct special research to obtain additional rent and rental equivalence information to determine whether the approach OPM is currently using is appropriate.

Although OPM surveyed rental rates for the same classes of housing in each area, the type, style, size, quality, and other characteristics of each unit varied within each area and between the COLA and DC areas. As described in Section 4.2.5, OPM used hedonic regression analyses to hold these characteristics constant between the COLA and Washington, DC, area to make rental price comparisons.

2.4 Outlet Selection

Just as it is important to select commonly-purchased items and survey the same items in both the DC area and COLA areas, it is important to select outlets frequented by consumers and find comparable outlets in both the COLA and DC areas. To identify comparable outlets, OPM categorized outlets by type (*e.g.*, grocery store, convenience store, discount store, hardware store, auto dealer, and catalog outlet). For example, OPM surveyed grocery items at supermarkets in all areas because most people purchase their groceries at such stores and because supermarkets exist in nearly all areas. Selecting comparable outlets is particularly important because of the significant price variations that may occur between dissimilar outlets (*e.g.*, comparing the price of milk at a supermarket with the price of milk at a convenience store).

OPM used the above classification criteria and existing data sources, including previous COLA surveys, phone books, and various business listings, to develop initial outlet lists for the survey. OPM provided these lists to the CACs, SIC, and TAC and consulted with them on outlet selection. The committees helped OPM refine the outlet lists and identify other/additional outlets where local consumers generally purchase the items that OPM planned to survey.

OPM also priced some items by catalog; and when it did, it priced the same items by catalog in the COLA areas and in DC areas for comparative purposes. To ensure consistent catalog pricing, OPM used only current catalogs for all catalog survey items. OPM priced 11 items by catalog in the Alaska and DC areas. All catalog prices included any charges for shipping and handling and all applicable taxes.

In all, OPM surveyed prices from approximately 850 outlets. In the COLA survey areas, described below, OPM attempted to survey three popular outlets of each type, to the extent practical. For some outlet types, such as local phone service, there were not three outlets, and in Fairbanks and Juneau, there sometimes were not sufficient number of businesses to find three outlets of each particular type. This was not generally a problem in Anchorage, however. In the Washington, DC, area, OPM attempted to survey nine popular outlets of each type, three in each of the DC survey areas, described in Table 3.

2.5 Geographic Coverage

Table 3 shows the Alaska COLA and DC survey area boundaries.

TABLE 3.—SURVEY AND DATA COLLECTION AREAS

COLA areas and reference areas	Survey area
Anchorage, AK	City of Anchorage.
Fairbanks, AK	Fairbanks/North Pole area.
Juneau, AK	Juneau/Mendenhall/Douglas area.
Washington, DC–DC	District of Columbia.
Washington, DC–MD	Montgomery County and Prince Georges County.
Washington, DC–VA	Arlington County, Fairfax County, Prince William County, City of Alexandria, City of Fairfax, City of Falls Church, City of Manassas, and City of Manassas Park.

Note: For selected items, such as snow skiing and air travel, these survey areas include additional geographic locations beyond these jurisdictions.

In Alaska, OPM collected non-housing prices in outlets throughout three major cities as described in Table 3. For certain items, such as skiing, OPM surveyed prices in areas beyond the cities shown in the table above. To collect housing (*i.e.*, rental) data, OPM contracted with Delta-21 Resources, Incorporated, a research organization with expertise in housing and rental data collection. Delta-21 surveyed rental rates in locations within these cities. In selecting the locations and sample sizes within these cities, OPM used tables from the 2000 Census that showed the number of Federal employees and rental vacancies by zip code.

To collect data in the DC area, OPM divided the area into three survey areas as shown in Table 3. OPM collected non-housing prices in outlets throughout this area. As in Alaska, OPM surveyed certain items, including skiing, in areas beyond the counties and cities shown in Table 3. OPM also surveyed the cost of air travel from Ronald Reagan Washington National Airport, Washington Dulles International Airport, and Baltimore/Washington International Airport (BWI) and surveyed the price of a 5-mile taxi ride originating at these airports. Both Dulles and BWI are outside the counties and cities shown in Table 3. Nevertheless, DC area residents commonly use both airports.

Delta-21 surveyed rental rates throughout the DC area. As with the Alaska COLA areas, OPM used Census data to select specific locations and sample sizes within the DC area, and

Delta collected data accordingly within these locations.

3. Conducting the Survey

3.1 Pricing Period

OPM collected data from early May through August 2003. OPM collected non-housing price data concurrently in the tree Alaska cities in May and collected the bulk of the DC area data in June and July. Delta-21 collected rental data sequentially in Juneau, Fairbanks, Anchorage, and in the Washington, DC, area beginning in early May and ending August 1, 2003.

3.2 Non-Housing Price Data Collection

3.2.1 Data Collection Teams

In both the COLA and Washington, DC, areas, OPM central office staff collected non-housing price data. In the COLA areas, data collection observers designated by the local CAC accompanied the OPM data collectors. Data collection observers were extremely helpful to OPM and the survey process by advising and assisting the data collectors in contacting outlets, matching items, and selecting substitutes. The observers also advised OPM on other living-cost and compensation issues relating to their areas. OPM did not use data collection observers in the Washington, DC, area, but OPM made the collected data available to the CACs.

3.2.2 Data Collection Process

The data collector/observer teams obtained most of the data by visiting stores, auto dealers, and other outlets. The teams also priced items, such as insurance, tax preparation fees, bank interest, and private education tuition, by telephone. As noted Section 2.4, OPM surveyed some items via catalog, including all shipping costs and any applicable taxes in the price. OPM also collected other data, such as sales tax rates and airline fares, from Web sites on the Internet.

For all items subject to sales and/or excise taxes, OPM added the appropriate amount of tax to the price for computing COLA rates. Sales tax rates varied by city within Alaska and in the DC area. Some sales tax rates also varied by item, such as restaurant meals, within a location.

The data collectors collected the rice of the item at the time of the visit to the outlet. Therefore, with certain exceptions, the data collectors collected the sale price, if the item was on sale, and OPM used that sale price in the COLA calculations. The exceptions include coupon prices, going-out-of-business prices, clearance prices, and area-wide distress sales, which OPM does not use because they are atypical and/or seasonal. OPM also does not collect automobile "sale" or negotiated prices. Instead, OPM obtains the sticker (*i.e.*, non-negotiated) price for the model and specified options. The prices are the manufacturer's suggested retail price (including options), destination charge, additional shipping charges, appropriate dealer-added items or options, dealer mark-up, an taxes, including sales tax and licensing and title fees.

3.3 Housing (Rental) Price Data Collection

As noted in Section 2.5, OPM contracted for the collection of rental data with Delta-21, which collected data in the three Alaska cities and in the DC area. These data included rental prices, comprehensive information about the size and type of dwelling, number and types of rooms, amenities, and other important aspects of the dwelling that might influence the rental price. Appendix 4 lists the data elements that the contractor collected.

The contractor identified units for rent from various sources, including rental property managers, realtor brokers, listing services, newspaper ads, grocery store bulletin boards, and casual drive-by observation. The contractor then visited each rental unit, took a photograph of the unit, and made a sketch of the floor plan based on exterior dimensions and shape. OPM made these data available to the CACs, including the photographs and sketches.

4. Analyzing the Results

4.1 Data Review

During and after the data collection process, the data collectors reviewed the data for errors and omissions. This involved reviewing the data item-by-item and comparing prides across outlets within an area to spot data entry errors, mismatches, and other mistakes.

After all of the data had been collected in both the COLA areas and Washington, DC, area, OPM staff again reviewed the data by item across all of the areas. One purpose was to spot errors not previously detected, but the principal reason was to look at substitute items.

A substitute is an item that is similar but does not exactly match the description of the specified survey item. For example, one of the items OM specified was a queen size sheet, flat of fitted, with 230–250 thread count to by surveyed in a discount store. The data collectors in Alaska, however, discovered that neither Fred Meyers nor Wal-Mart sold sheets with this thread count. Therefore, the data collectors, priced queen size sheets with a 300 thread count instead. OPM then prices the same type of sheet in the DC area and used the substitute price information for this item.

4.2 Special Price Computations

After completing its data review, OPM had to make special price computations for five survey items: K–12 private education, Federal Employees Health Benefits premiums, water utilities, energy utility prices, and rental prices. For each of these, OPM used special processes to calculate appropriate values for each survey area.

4.2.1 K-12 Private Education

One of the items OPM surveyed is the average annual tuition for private education, grades K-12, in each area. Generally, tuition rates varied by grade level, so OPM computed an overall average tuition "price" for each school surveyed by averaging the tuition rates grade-by-grade. Section 4.4.2 below describes the additional special adjustments OPM applied to these "prices" in the price comparison process.

4.2.2 Health Insurance

As noted in Section 2.3.1, OPM surveyed the non-Postal employee's premium for the various Federal Employees Health Benefit (FEHB) plans offered in each survey area. Using enrollment information from OPM's CPDF, OPM computed two weighted average premium costs—one for self-only coverage and another for family coverage—for Federal white-collar employees in each of the COLA areas and the Washington, DC, area. As shown in Table 4, OPM then computed an overall weighted average premium for each survey area by applying the number of white-collar Federal employees nationwide enrolled in self-only and family plans. OPM used these overall weighted average premiums as "prices" in the price averaging process described in Section 4.3 below.

TABLE 4.—2003 AVERAGE FEHB PREMIUMS FOR FULL-TIME PERMANENT EMPLOYEES

[Non-postal employees' share]

Location	Self premium	Family premium	Bi-weekly weighted average premium	Annual weighted average premium
Anchorage	$47.16	$106.73	$83.59	$2,180.80
Fairbanks	$45.19	$105.79	82.25	2,145.84
Juneau	$47.44	$104.45	82.31	2,147.41
DC Area	$41.41	$93.96	73.55	1,918.87
Natonwide Enrollment	584,117	919,642	.....	.....
Enrollment Percentage	38.13	61.87	.....	.....

4.2.3 Water Utilities

OPM surveyed water utility rates in each of the COLA and Washington, DC, survey areas. To compute the "price" of water utilities, OPM assumed that the average monthly water consumption in each area was 7,600 gallons. This is consistent with the consumption amount OPM used in the previous COLA survey. OPM used this quantity along with the rates charged to compute the average monthly water utility cost by survey area. OPM used these average monthly costs as "prices" in the price averaging process described in Section 4.3 below.

4.2.4 Energy Utilities Model

For energy utilities (*i.e.*, electricity, gas, and oil), OPM collected from local utility companies and suppliers in each of the COLA and DC survey areas the price of various energy utilities used for lighting, cooking, heating, cooling, and other household needs. OPM then used the results of a heating and cooling engineering model to determine how many kilowatt hours of electricity, cubic feet of gas, and/or gallons of fuel oil are needed to maintain a specific model home at a constant ambient temperature of 72 degrees in each area. The engineering model uses local home construction information and climatic data from the National Oceanic and Atmospheric Administration and also includes the amount of electricity needed to run standard household appliances and lighting. For each survey area, OPM calculated the cost to heat and cool the model home using the different heating fuels and electricity for lighting and appliances. Although some homes use additional heating and cooling technologies, such as wood, coal, kerosene, and solar energy, OPM did not price or include these in the calculations because, based on the results of the 2000 Census, relatively few homes use these as primary energy sources.

For Fairbanks and Juneau, OPM surveyed the price of electricity and fuel oil to compute home energy costs because the 2000 Census indicated that these two sources were used to heat over 95 percent of the homes in Fairbanks and Juneau. In Anchorage, OPM surveyed gas and electricity prices because Census data indicated that 97 percent of the Anchorage homes use these energy sources for heating. In Washington, OPM surveyed the costs of all three fuels (gas, oil and electricity). OPM used percentages based on the usage of the different fuels in each survey area to compute a weighted average utility fuel cost for the area. Appendix 5 shows the energy requirements, relative usage percentages, and total costs by area. OPM used these total costs as the "price" of utilities in the COLA rate calculations.

4.2.5 Rental Data Hedonic Models

As discussed in Sections 2.5 and 3.3, OPM hired a contractor to collect rental data, including rents and the characteristics of each rental unit. OPM hired another contractor the Center of International and Interarea Comparisons (CIIC), to analyze the housing data and estimate relative rental rates and rental indexes. CIIC is well-known for its work in international price comparisons, and one of its co-directors of research is a member of the TAC. CIIC consulted closely with the TAC and the SIC in analyzing the rental survey results.

As prescribed by OPM regulations and the *Caraballo* settlement, CIIC used hedonic regression analysis, which is a type of multiple linear regression analysis, to compare rents in the COLA areas with rents in the DC area. Multiple linear regression is used to determine how the dependent variable (in this case rent) is influenced by the independent variables (in this case the characteristics of the rental unit). CIIC found that only some of the housing characteristics that Delta-21 collected were statistically meaningful in determining what influenced rent in the Alaska and DC areas. CIIC tested various approaches using different characteristics and shared the results with the TAC. The TAC recommended one specific equation, which OPM adopted. This equation used the independent variables listed below, although some of the variables were "crossed" (*i.e.*, used interactively) with other variables:

Number of square feet;
Number of bedrooms;
Number of bathrooms;
Number of years since built or extensively remodeled;
Parking provided (yes/no);
Pets allowed (yes/no);
Heated garage (yes/no);
Fireplace (yes/no);
External condition (good, average, poor);
Quality of neighborhood (desirable, less desirable);
Unit Type 1 (a: high rise apartment, b: garden or in-home apartment, c: house);
Unit Type 2 (a: high rise, garden, or in-home apartment, b: house);
Area (Anchorage, Fairbanks, Juneau, or the DC area).

As is common in this type of analysis and as was done in the research leading to the *Caraballo* settlement, CIIC used semi-logarithmic regressions. The regression produces parameter estimates for each independent variable, including Area. When the regression uses the Washington, DC, area as the base, the regression produces parameter estimates for each of the COLA survey areas: Anchorage, Fairbanks, and Juneau. The exponent of the Area parameter estimate (*i.e.*, when the estimate is converted from natural logarithms) multiplied by 100 (following the convention used to express indexes) yields the Area's rent index. This index reflects the difference in rents for the COLA survey area relative to the Washington, DC, area, while (in effect) holding other significant housing characteristics constant.

The TAC recommended a technical adjustment to the above calculations to correct for a slight bias caused by the use of logarithms. The exponent of the average of the logarithms of a series of numbers is always less than the average

of the numbers. Therefore, at the TAC's recommendation, OPM added one-half of the standard deviation of the Area parameter estimate before converting from natural logarithms. (See Arthur Goldberger, "Best Linear Unbiased Prediction in the Generalized Linear Regression Model," *Journal of the American Statistical Association,* 1962.) Table 6 shows the resulting rent indexes. OPM used these indexes as "prices" in the price averaging process described in Section 4.3.

TABLE 6.—RENT INDEXES

Area	Rent index
Anchorage	86.06
Fairbanks	78.84
Juneau	92.91
Washington, DC, Area	*100.00

*By definition, the index of the base area is always 100.00.

Appendix 6 shows the regression equation in SAS code and the regression results. (SAS is a proprietary statistical analysis computer software package.) The TAC recommended that OPM review the issue of which equation to use and how to choose among equations as additional rental data become available during the Pacific COLA surveys. OPM plans to do this.

4.3 Averaging Prices by Item and Area

After OPM collected, reviewed, and made special adjustments, as required, to the data, OPM averaged the prices for each item by COLA survey area. For example, OPM priced canned soup at three different grocery stores in Anchorage and averaged these prices to compute a single average price for canned soup in Anchorage. If OPM collected more than one price for a particular matched item within the same outlet (*e.g.,* priced equivalent brands), OPM used the lowest price by item and outlet to compute the average. (The concept is that if the item and brands are equivalent, consumers will choose the one with the lowest price.) OPM repeated this item-by-item averaging process for each area.

For Washington, DC, area prices, OPM first averaged prices within each of the three DC survey areas described in Section 2.5. Then OPM computed a simple average of the three DC area survey averages to derive a single DC area average price for each survey item.

4.4 Computing Price Indexes

Next, OPM computed a price index for each of the items found in both the COLA survey area and in the Washington, DC, area. To do this, OPM divided the COLA survey area average price by the DC area average price and, following the convention used to express indexes, multiplied this by 100. For the vast majority of survey items, OPM next applied consumer expenditure weights. For a few items, however, OPM first applied special processes as described in Sections 4.4.1 and 4.4.2 below.

4.4.1 Geometric Means

As described in Section 2.3, OPM selected survey items to represent selected detailed expenditure categories (DECs). Generally, OPM surveyed only one item per DEC, but in a few cases, OPM surveyed multiple items at a single DEC. In these cases, OPM computed the geometric mean of the price indexes to derive a single price index for the DEC. (A geometric mean is the *n*th root of the product of *n* different numbers and is often used in price index computations.) For example, OPM surveyed two prescription drugs—Amoxicillin and Prilosec. These two different prescription drugs represent a single DEC called "prescription drugs." To derive a single price index for the DEC, OPM computed the geometric mean of the price index for Amoxicillin and the price index for Prilosec.

4.4.2 Special Private Education Computations

As noted in Section 4.2.1, OPM surveyed K–12 private education in the COLA and DC areas and computed an average tuition "price" that reflected all grade levels. Because not everyone sends children to private school, OPM made an additional special adjustment for K–12 education by applying "use factors." These use factors reflect the relative extent to which Federal employees make use of private education in the COLA and DC areas. For example, Table 8 below shows a use factor of 0.7816 for Anchorage. OPM computed this by dividing 10.34 percent (the percentage of Federal employees in Anchorage with at least 1 child in a private school) by 13.23 percent (the percent of DC area Federal employees with at least 1 child in a private school). OPM obtained the percentages from the results of the 1992/93 Federal Employee Housing and Living Patterns Survey, which is the most current comprehensive data available. Table 8 below shows the use factors and the adjusted price indexes for each COLA survey area.

TABLE 8.—SUMMARY OF PRIVATE EDUCATION USE FACTORS AND INDEXES

COLA survey area	Employees w/children in private schools		Use factor	Price index	Price index w/use factor
	Local area	DC area			
Anchorage	10.34	13.23	0.7816	37.97	29.67
Fairbanks	8.56	13.23	0.6470	21.39	13.84
Juneau	12.343	13.23	0.9395	23.95	22.50

4.5 Applying Consumer Expenditure Weights

Next, OPM applied consumer expenditure weights to aggregate price indexes by expenditure group. As noted in Section 2.3, OPM used the results of the BLS Consumer Expenditure Survey to estimate the amounts that middle income level consumers in the DC area spend on various items. Using expenditure weights, OPM combined the price indexes according to their relative importance. For example, shelter is the most important expenditure in terms of the COLA survey and represents about 28 percent of total consumer expenditures. On the other hand, the purchase of newspapers at newsstands represents less than 1/10th of 1 percent of total expenditures.

Beginning at the lowest level of expenditure aggregation (*e.g.,* sub-PEG), OPM computed the relative importance in percent of each survey item within the level of aggregation, multiplied the price index times its expenditure percentage, and summed the cross products for all of the items within the level of aggregation to compute a weighted price index for that level. OPM repeated this proces at each level of aggregation (*e.g.,* PEG and MEG). Appendix 7 shows these calculations for each COLA survey area at the PEG and MEG level. The above process resulted in an overall price index for each of the

Alaska COLA areas (shown in Appendix 7) but not for the Rest of the State of Alaska.

4.6 Computing the Overall Price Index for Rest of the State of Alaska

Pursuant to the *Caraballo* settlement agreement, OPM did not conduct a living-cost survey in the Rest of the State of Alaska COLA area. Instead, OPM obtained information published by the University of Alaska and the Alaska Department of Labor and Workforce Development that compared prices in Anchorage with various other locations in Alaska. OPM used these data to compare prices in Kodiak, Alaska, with prices in Anchorage to compute, to the extent practical, Kodiak price indexes at the PEG and MEG level using Anchorage as the base. OPM then multiplied the MEG price indexes by the anchorage indexes shown in Appendix 7 to estimate price differences in Kodiak compared with the DC area. OPM used the expenditure weights and the process described above to aggregate these indexes and produce an overall price index for the Rest of the State of Alaska, as shown in Appendix 8.

5. Final Results

To compute the overall living-cost index, OPM added to the price index a non-price adjustment factor. The parties in *Caraballo* negotiated these factors to reflect differences in living costs that might not be captured by the surveys, and OPM adopted these factors in regulation as part of the new methodology. The factor for Anchorage is even index points. The factor for all other COLA areas in Alaska is nine index points. The resulting living-cost indexes are shown in Table 9.

TABLE 9.—FINAL LIVING-COST COMPARISON INDEXES

Allowance	Index
Anchorage	112.63
Fairbanks	1152.00
Juneau	118.34
Rest of the State of Alaska	134.80

6. Post Survey Meetings

In October 2003, the CACs, SIG, and TAC held 1-day joing meetings in Anchorage, Fairbanks, and Juneau to review the survey results. OPM provided the committee members with various reports showing all the data that OPM collected, examples of how OPM reviewed these data, the data that OPM used in its analyses, and the results at the PEG and MEG level, as shown in Appendix 7. Members of the TAC explained how the rental data were analyzed and how OPM sued expenditure weights to combine price indexes to reflect overall living costs.

Appendix 1—Publication in the Federal Register of Prior Survey Results: 1990–1998

Citation	Contents
65 FR 44103	Report on 1998 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgini Islands.
63 FR 56432	Report on 1997 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
62 FR 14190	Report on 1996 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
61 FR 4070	Report on winter 1995 living-cost surveys conducted in Alaska.
60 FR 61332	Report on summer 1994 living-cost surveys conducted in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
59 FR 45066	Report on winter 1994 living-cost surveys conducted in Alaska.
58 FR 45558	Report on summer 1992 and winter 1993 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 27316	Report on summer 1993 living-cost surveys conducted in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
57 FR 58556	Report on summer 1991 and winter 1992 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
56 FR 7902	Report on summer 1990 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.

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APPENDIX 2
ESTIMATED DC AREA MIDDLE INCOME ANNUAL CONSUMER EXPENDITURES
(Asterisks show Detailed Expenditure Categories (DECs) for which OPM surveyed items.)

Level	*Code*		*Category Name*	*Expenditures*
1	TOTALEXP		Total	$49918.73
2	FOODTOTL	MEG	Food	6119.75
3	CERBAKRY	PEG	Cereals and bakery products	465.16
4	CEREAL		Cereals and cereal products	153.27
5	010110		Flour	6.68
5	010120		Prepared flour mixes	13.95
5	010210		Ready-to-eat and cooked cereals *	84.48
5	010310		Rice *	18.21
5	010320		Pasta, cornmeal & other cereal products *	29.95
4	BAKERY		Bakery products	311.89
5	BREAD		Bread	91.51
6	020110		White bread *	37.57
6	020210		Bread, other than white *	53.94
5	CRAKCOOK		Crackers and cookies	72.45
6	020510		Cookies *	47.57
6	020610		Crackers	24.89
5	020810		Frozen and refrigerated bakery products *	28.67
5	OTHBAKRY		Other bakery products	119.26
6	020310		Biscuits and rolls *	41.40
6	020410		Cakes and cupcakes *	35.89
6	020620		Bread and cracker products	4.23
6	020710		Sweet rolls, coffee cakes, doughnuts	27.90
6	020820		Pies, tarts, turnovers	9.84
3	ANIMAL	PEG	Meats, poultry, fish, and eggs	697.58
4	BEEF		Beef	185.68
5	030110		Ground beef *	67.85
5	ROAST		Roast	32.33
6	030210		Chuck roast *	10.48
6	030310		Round roast *	9.26
6	030410		Other roast	12.59
5	STEAK		Steak	70.22
6	030510		Round steak *	13.91
6	030610		Sirloin steak *	20.52
6	030710		Other steak	35.79

Level	Code		Category Name	Expenditures
5	030810		Other beef	15.28
4	PORK		Pork	96.17
5	040110		Bacon *	15.49
5	040210		Pork chops *	22.23
5	HAM		Ham	20.76
6	040310		Ham, not canned *	19.51
6	040610		Canned ham *	1.25
5	040510		Sausage	14.88
5	040410		Other pork	22.81
4	OTHRMEAT		Other meats	97.25
5	050110		Frankfurters *	21.09
5	LNCHMEAT		Lunch meats (cold cuts)	66.29
6	050210		Bologna, liverwurst, salami *	22.40
6	050310		Other lunchmeats	43.90
5	LAMBOTHR		Lamb, organ meats and others	9.87
6	050410		Lamb and organ meats	9.35
6	050900		Mutton, goat and game	0.52
4	POULTRY		Poultry	149.75
5	CHICKEN		Fresh and frozen chickens	118.41
6	060110		Fresh and frozen whole chicken	34.37
6	060210		Fresh and frozen chicken parts	84.04
5	060310		Other poultry *	31.35
4	FISHSEA		Fish and seafood	134.00
5	070110		Canned fish and seafood *	17.97
5	070230		Fresh fish and shellfish *	70.60
5	070240		Frozen fish and shellfish *	45.43
4	080110		Eggs *	34.72
3	DAIRY	PEG	Dairy products	320.64
4	MILKCRM		Fresh milk and cream	118.07
5	090110		Fresh milk, all types *	108.46
5	090210		Cream	9.61
4	OTHDAIRY		Other dairy products	202.56
5	100110		Butter	20.81
5	100210		Cheese *	98.86
5	100410		Ice cream and related products *	58.05
5	100510		Miscellaneous dairy products	24.84
3	FRUITVEG	PEG	Fruits and vegetables	354.41
4	FRSHFRUT		Fresh fruits	180.72

Level	Code		Category Name	Expenditures
5	110110		Apples *	35.37
5	110210		Bananas *	35.87
5	110310		Oranges *	21.73
5	110510		Citrus fruits, excluding oranges	15.82
5	110410		Other fresh fruits	71.93
4	FRESHVEG		Fresh vegetables	173.69
5	120110		Potatoes *	31.73
5	120210		Lettuce *	20.65
5	120310		Tomatoes *	31.05
5	120410		Other fresh vegetables	90.26
3	PROCFOOD	PEG	Processed Foods	736.79
4	PROCFRUT		Processed fruits	133.03
5	FRZNFRUT		Frozen fruits and fruit juices	16.38
6	130110		Frozen orange juice *	9.76
6	130121		Frozen fruits	2.58
6	130122		Frozen fruit juices	4.03
5	130310		Canned fruits *	20.48
5	130320		Dried fruit	6.51
5	130211		Fresh fruit juice	25.62
5	130212		Canned and bottled fruit juice *	64.04
4	PROCVEG		Processed vegetables	82.69
5	140110		Frozen vegetables *	27.73
5	CANDVEG		Canned and dried vegetables and juices	54.96
6	140210		Canned beans *	13.50
6	140220		Canned corn	7.21
6	140230		Canned miscellaneous vegetables	17.64
6	140320		Dried peas	0.18
6	140330		Dried beans	2.08
6	140340		Dried miscellaneous vegetables	7.19
6	140310		Dried processed vegetables	0.28
6	140410		Frozen vegetable juices	0.37
6	140420		Fresh and canned vegetable juices	6.51
4	MISCFOOD		Miscellaneous foods	521.07
5	FRZNPREP		Frozen prepared foods	102.28
6	180210		Frozen meals *	30.02
6	180220		Other frozen prepared foods	72.26
5	180110		Canned and packaged soups *	36.81
5	SNACKS		Potato chips, nuts, and other snacks	99.60

Level	Code		Category Name	Expenditures
6	180310		Potato chips and other snacks *	79.44
6	180320		Nuts	20.16
5	CONDMNTS		Condiments and seasonings	82.87
6	180410		Salt, spices, other seasonings *	18.51
6	180420		Olives, pickles, relishes	9.49
6	180510		Sauces and gravies *	38.24
6	180520		Baking needs and miscellaneous products	16.62
5	OTHRPREP		Other canned & packaged prepared foods	144.16
6	180611		Prepared salads	19.57
6	180612		Prepared desserts *	10.32
6	180620		Baby food *	25.84
6	180710		Miscellaneous prepared foods	88.16
6	180720		Vitamin supplements	0.27
5	190904		Food prepared on out-of-town trips	55.35
3	OTHRFOOD	PEG	Other food at home	186.56
4	SWEETS		Sugar and other sweets	119.14
5	150110		Candy and chewing gum *	74.74
5	150211		Sugar *	19.77
5	150212		Artificial sweeteners *	3.85
5	150310		Jams, preserves, other sweets *	20.78
4	FATSOILS		Fats and oils	67.42
5	160110		Margarine *	9.60
5	160211		Fats and oils *	18.50
5	160212		Salad dressings *	21.84
5	160310		Nondairy cream and imitation milk	7.62
5	160320		Peanut butter	9.86
3	NALCBEVG	PEG	Nonalcoholic beverages	235.77
4	170110		Cola *	85.48
4	170210		Other carbonated drinks	44.06
4	COFFEE		Coffee	32.25
5	170310		Roasted coffee *	20.96
5	170410		Instant and freeze dried coffee	11.29
4	170510		Noncarbonated fruit flavored drinks*	18.15
4	170520		Tea	14.63
4	200112		Nonalcoholic beer	0.38
4	170530		Other nonalcoholic beverages and ice	40.82
3	FOODAWAY	PEG	Food away from home	2694.01
4	RESTRANT		Meals at restaurants, carry-outs and other	2290.76

Level	Code		Category Name	Expenditures
5	LUNCH		Lunch	855.16
6	190111		Lunch at fast food, take-out, delivery, etc. *	479.84
6	190112		Lunch at full service restaurants *	254.37
6	190113		Lunch at vending machines/mobile vendors	11.40
6	190114		Lunch at employer and school cafeterias	109.56
5	DINNER		Dinner	863.54
6	190211		Dinner at fast food, take-out, etc. *	298.36
6	190212		Dinner at full service restaurants *	558.02
6	190213		Dinner at vending machines/mobile vendors	2.45
6	190214		Dinner at employer and school cafeterias	4.71
5	SNKNABEV		Snacks and nonalcoholic beverages	342.62
6	190311		Snacks/nonalcoholic bev. at fast food, etc. *	228.90
6	190312		Snacks/nonalcoholic bev. at full svc. rest.	41.44
6	190313		Snacks/nonalcoholic bev. at vending mach.	54.90
6	190314		Snacks/nonalcoholic beverages at cafeterias	17.38
5	BRKFBRUN		Breakfast and brunch	229.44
6	190321		Breakfast/brunch at fast food, take-out, etc. *	121.03
6	190322		Breakfast/brunch at full service restaurants *	100.24
6	190323		Breakfast & brunch at vending machines, etc.	2.29
6	190324		Breakfast and brunch at cafeterias	5.88
4	NONRESME		Non Restaurant Meals	403.25
5	190901		Board (including at school)	28.84
5	190902		Catered affairs	35.92
5	190903		Food on out-of-town trips	220.95
5	790430		School lunches	83.67
5	800700		Meals as pay	33.86
3	ALCBEVG	PEG	Alcoholic beverages	428.82
4	ALCHOME		At home	265.01
5	200111		Beer and ale *	164.48
5	200210		Whiskey	12.51
5	200310		Wine *	57.98
5	200410		Other alcoholic beverages	30.04
4	ALCAWAY		Away from home	163.81
5	BEERNALE		Beer and ale	75.88
6	200511		Beer and ale at fast food, take-out, etc.	14.13
6	200512		Beer and ale at full service restaurants *	58.18
6	200513		Beer and ale at vending machines, etc.	1.20
6	200516		Beer and ale at catered affairs	2.38

Level	Code		Category Name	Expenditures
5	WINE		Wine	17.25
6	200521		Wine at fast food, take-out, delivery, etc.	3.08
6	200522		Wine at full service restaurants *	13.21
6	200523		Wine at vending machines & mobile vendors	0.40
6	200526		Wine at catered affairs	0.56
5	OTHALCBV		Other alcoholic beverages	70.67
6	200531		Other alcoholic bev. at fast food, etc.	6.76
6	200532		Other alcoholic bev. at full svc. restaurants	29.77
6	200533		Other alcoholic bev. at vending machines	0.47
6	200536		Other alcoholic bev. at catered affairs	1.03
6	200900		Alcoholic beverages purchased on trips	32.65
2	SHEL&UTL	MEG	Shelter and Utilities	16662.90
3	SHELTER	PEG	Shelter	14804.51
4	RNTLEQ		Rental Equivalence (estimated monthly X 12)	11131.94
4	RENTXX		Rented Dwelling (rent minus tenants ins.) *	2794.14
4	OTHLODGE		Other Lodging (other minus housing at school)	834.56
4	350110		Tenants Insurance (tenants ins. X 2) *	43.87
3	ENERUT	PEG	Energy Utilities *	1518.80
3	WATERX	PEG	Water and other public services *	339.59
2	HHF&SUPP	MEG	Household Furnishings and Supplies	3020.15
3	HHOPER	PEG	Household operations	761.03
4	HHPERSRV		Personal services	431.07
5	340210		Babysitting and child care *	90.08
5	340906		Care for elderly, invalids, handicapped, etc.	61.69
5	340910		Adult day care centers	3.81
5	670310		Day-care centers, nursery, and preschools *	275.49
4	HHOTHXPN		Other household expenses	329.96
5	340310		Housekeeping services *	63.08
5	340410		Gardening, lawn care service *	94.51
5	340420		Water softening service	5.88
5	340520		Household laundry and dry cleaning, sent out	2.30
5	340530		Coin-operated household laundry/dry cleaning	7.49
5	340914		Services for termite/pest control	12.67
5	340915		Home security system service fee	24.04
5	340903		Other home services	16.85
5	330511		Termite/pest control products	0.62
5	340510		Moving, storage, freight express *	59.86
5	340620		Appliance repair, including service center	21.08

Level	Code		Category Name	Expenditures
5	340630		Reupholstering, furniture repair	8.41
5	340901		Repairs/rentals of lawn/garden equipment, etc.	7.27
5	340907		Appliance rental	3.26
5	340908		Rental of office equip. for non-business use	0.88
5	340913		Repair of miscellaneous household equip.	1.76
5	990900		Rental and installation-kitchen appliances	0.00
3	HKPGSUPP	PEG	Housekeeping supplies	522.89
4	LAUNDRY		Laundry and cleaning supplies	127.36
5	330110		Soaps and detergents *	72.10
5	330210		Other laundry cleaning products	55.26
4	HKPGOTHR		Other household products	286.78
5	330310		Cleansing & toilet tissue, paper towels/nap. *	84.38
5	330510		Miscellaneous household products	135.97
5	330610		Lawn and garden supplies *	66.43
4	POSTAGE		Postage and stationery	108.75
5	330410		Stationery, stationery supplies, gift wraps *	56.61
5	340110		Postage	49.71
6	STAMP		Stamp *	47.03
6	PARPST		Parcel Post *	2.68
5	340120		Delivery services	2.43
3	TEX&RUGS	PEG	Textiles and Area Rugs	143.86
4	HHTXTILE		Household textiles	120.04
5	280110		Bathroom linens *	29.20
5	280120		Bedroom linens *	43.63
5	280130		Kitchen and dining room linens	12.06
5	280210		Curtains and draperies	12.87
5	280220		Slipcovers, decorative pillows	11.12
5	280230		Sewing materials for slipcovers, curtains, etc.	10.21
5	280900		Other linens	0.95
4	FLOORCOV		Floor coverings	23.81
5	RNTCARPT		Wall-to-wall carpeting (renter)	1.09
6	230134		Wall-to-wall carpet (renter)	1.09
6	320163		Wall-to-wall carpet (replacement)(renter)	0.00
5	320111		Floor coverings, nonpermanent *	22.72
3	FURNITUR	PEG	Furniture	572.16
4	290110		Mattress and springs *	89.73
4	290120		Other bedroom furniture	91.07
4	290210		Sofas	149.45

Level	Code		Category Name	Expenditures
4	290310		Living room chairs *	55.73
4	290320		Living room tables	29.16
4	290410		Kitchen, dining room furniture *	61.82
4	290420		Infants' furniture	13.22
4	290430		Outdoor furniture	15.42
4	290440		Wall units, cabinets & other occasional furn.	66.56
3	MAJAPPL	PEG	Major appliances	188.39
4	230116		Dishwashers (built-in), disposals, range hoods	14.16
4	300110		Refrigerators, freezers *	55.66
4	300210		Washing machines *	23.52
4	300220		Clothes dryers	17.27
4	300310		Cooking stoves, ovens *	28.06
4	300320		Microwave ovens	11.33
4	300330		Portable dishwasher	1.72
4	300410		Window air conditioners	10.29
4	320511		Electric floor cleaning equipment *	15.54
4	320512		Sewing machines	5.88
4	300900		Miscellaneous household appliances	4.95
3	SMAPPHWR	PEG	Small appliances, miscellaneous housewares	97.93
4	HOUSWARE		Housewares	67.09
5	320310		Plastic dinnerware	1.98
5	320320		China and other dinnerware *	10.03
5	320330		Flatware	4.65
5	320340		Glassware	6.31
5	320350		Silver serving pieces	2.09
5	320360		Other serving pieces	1.70
5	320370		Nonelectric cookware *	18.61
5	320380		Tableware, nonelectric kitchenware	21.73
4	SMLLAPPL		Small appliances	30.85
5	320521		Small electric kitchen appliances *	25.54
5	320522		Portable heating and cooling equipment	5.31
3	MISCHHEQ	PEG	Miscellaneous household equipment	733.89
4	320120		Window coverings	16.72
4	320130		Infants' equipment	12.65
4	320140		Laundry and cleaning equip.	21.18
4	320150		Outdoor equipment *	37.61
4	320210		Clocks	4.36
4	320220		Lamps and lighting fixtures	12.47

Level	Code		Category Name	Expenditures
4	320231		Other household decorative items	204.33
4	320232		Telephones and accessories *	52.56
4	320410		Lawn and garden equipment *	71.35
4	320420		Power tools *	47.06
4	320901		Office furniture for home use *	20.44
4	320902		Hand tools *	13.58
4	320903		Indoor plants, fresh flowers *	71.70
4	320904		Closet and storage items	13.82
4	340904		Rental of furniture	9.83
4	430130		Luggage	7.63
4	690210		Telephone answering devices	2.26
4	690220		Calculators	1.56
4	690230		Business equipment for home use	4.85
4	320430		Other hardware	40.46
4	690242		Smoke alarms (owned home)	1.58
4	690241		Smoke alarms (renter)	0.18
4	690243		Smoke alarms (owned vacation)	0.00
4	690245		Other household appliances (owned home)	11.61
4	690244		Other household appliances (renter)	2.99
4	320905		Miscellaneous household equipment & parts	51.12
2	APPAREL	MEG	Apparel and services	1992.65
3	MENBOYS	PEG	Men and boys	446.92
4	MENS		Men, 16 and over	358.81
5	360110		Men's suits *	26.01
5	360120		Men's sports coats, tailored jackets	7.77
5	360210		Men's coats and jackets *	27.04
5	360311		Men's underwear *	16.83
5	360312		Men's hosiery	13.95
5	360320		Men's nightwear	2.75
5	360330		Men's accessories	22.09
5	360340		Men's sweaters and vests	14.03
5	360350		Men's active sportswear	24.30
5	360410		Men's shirts *	85.45
5	360511		Men's pants *	90.78
5	360512		Men's shorts, shorts sets	19.17
5	360901		Men's uniforms	5.30
5	360902		Men's costumes	3.33
4	BOYS		Boys, 2 to 15	88.11

Level	Code		Category Name	Expenditures
5	370110		Boys' coats and jackets	5.62
5	370120		Boys' sweaters	3.79
5	370130		Boys' shirts *	20.27
5	370211		Boys' underwear	6.00
5	370212		Boys' nightwear	2.18
5	370213		Boys' hosiery	3.69
5	370220		Boys' accessories	1.71
5	370311		Boys' suits, sports coats, vests	1.85
5	370312		Boys' pants *	24.84
5	370313		Boys' shorts, shorts sets	8.97
5	370903		Boys' uniforms	3.72
5	370904		Boys' active sportswear	2.97
5	370902		Boys' costumes	2.49
3	WMNSGRLS	PEG	Women and girls	788.12
4	WOMENS		Women, 16 and over	653.89
5	380110		Women's coats and jackets *	40.95
5	380210		Women's dresses	86.43
5	380311		Women's sports coats, tailored jackets	5.97
5	380312		Women's vests and sweaters *	65.78
5	380313		Women's shirts, tops, blouses *	110.38
5	380320		Women's skirts	17.64
5	380331		Women's pants *	99.91
5	380332		Women's shorts; shorts sets	18.67
5	380340		Women's active sportswear	30.88
5	380410		Women's sleepwear	29.53
5	380420		Women's undergarments	40.76
5	380430		Women's hosiery	26.12
5	380510		Women's suits	31.54
5	380901		Women's accessories	33.59
5	380902		Women's uniforms	8.39
5	380903		Women's costumes	7.36
4	GIRLS		Girls, 2 to 15	134.23
5	390110		Girls' coats and jackets	6.23
5	390120		Girls' dresses and suits *	13.91
5	390210		Girls' shirts, blouses, sweaters *	32.22
5	390221		Girls' skirts and pants *	25.66
5	390222		Girls' shorts, shorts sets	9.47
5	390230		Girls' active sportswear	18.53

Level	Code		Category Name	Expenditures
5	390310		Girls' underwear and sleepwear	8.17
5	390321		Girls' hosiery	5.43
5	390322		Girls' accessories	6.66
5	390901		Girls' uniforms	4.34
5	390902		Girls' costumes	3.61
3	INFANT	PEG	Children under 2	91.63
4	410110		Infant coat, jacket, snowsuit	2.64
4	410120		Infant dresses, outerwear	25.31
4	410130		Infant underwear *	50.54
4	410140		Infant nightwear, loungewear *	4.26
4	410901		Infant accessories	8.87
3	FOOTWEAR	PEG	Footwear	333.68
4	400110		Men's footwear *	121.16
4	400210		Boys' footwear	24.84
4	400310		Women's footwear *	155.09
4	400220		Girls' footwear	32.59
3	OTHAPPRL	PEG	Other apparel products and services	332.31
4	420110		Material for making clothes	3.87
4	420120		Sewing patterns and notions	10.53
4	430110		Watches *	22.11
4	430120		Jewelry *	121.67
4	440110		Shoe repair and other shoe service	2.21
4	440120		Coin-operated apparel laundry/dry cleaning *	59.12
4	440130		Alteration, repair & tailoring of apparel	7.74
4	440140		Clothing rental	5.29
4	440150		Watch and jewelry repair	8.16
4	440210		Apparel laundry/dry cleaning not coin-op.*	90.45
4	440900		Clothing storage	1.16
2	TRANS	MEG	Transportation	8141.15
3	MOTVEHCO	PEG	Motor Vehicle Costs	4254.22
4	VEHPURCH		Vehicle purchases (net outlay)	3358.98
5	NEWCARS		Cars and trucks, new	1558.35
6	450110		New cars and trucks *	1558.35
5	USEDCARS		Cars and trucks, used	1757.49
6	460110		Used cars	989.05
6	460901		Used trucks	768.43
5	OTHVEHCL		Other vehicles	43.14
6	450220		New motorcycles	29.99

Level	Code		Category Name	Expenditures
6	450900		New aircraft	0.00
6	460902		Used motorcycles	13.15
6	460903		Used aircraft	0.00
4	VEHFINCH		Vehicle finance charges	448.31
5	510110		Automobile finance charges *	224.31
5	510901		Truck finance charges	193.24
5	510902		Motorcycle and plane finance charges	3.57
5	850300		Other vehicle finance charges	27.19
4	LEASVEH		Leased vehicles	283.82
5	450310		Car lease payments	139.48
5	450313		Cash down payment (car lease)	7.56
5	450314		Termination fee (car lease)	3.68
5	450410		Truck lease payments	122.73
5	450413		Cash down payment (truck lease)	10.10
5	450414		Termination fee (truck lease)	0.29
4	VEHXP&LV		Other Vehicle Expenses and Licenses	163.11
5	520110		State & local registration*	102.10
5	520310		Driver's license	7.11
5	PARKING		Parking fees	23.71
6	520531		Parking fees in home city, excl. residence	20.05
6	520532		Parking fees, out-of-town trips	3.66
5	520541		Tolls	9.48
5	520542		Tolls on out-of-town trips	3.59
5	520550		Towing charges	6.27
5	620113		Automobile service clubs	10.86
3	GASOIL	PEG	Gasoline and motor oil	1423.86
4	470111		Gasoline *	1299.31
4	470112		Diesel fuel	12.97
4	470113		Gasoline on out-of-town trips	97.67
4	470114		Gasohol	0.00
4	470211		Motor oil	12.92
4	470212		Motor oil on out-of-town trips	0.99
3	CARP&R	PEG	Maintenance and repairs	835.72
4	CARPAR		Maintenance and Repair Parts	232.40
5	470220		Coolant, additives, brake, transmission fluids	4.35
5	480110		Tires - purchased, replaced, installed *	107.10
5	480213		Parts, equipment, and accessories *	62.16
5	480214		Vehicle audio equipment, excluding labor	50.65

Level	Code		Category Name	Expenditures
5	480212		Vehicle products	8.13
4	CARREP		Maintenance and Repair Service *	603.32
5	490000		Misc. auto repair, servicing	43.22
5	490110		Body work and painting	44.47
5	490211		Clutch, transmission repair	56.47
5	490212		Drive shaft and rear-end repair	5.49
5	490221		Brake work, including adjustments	65.78
5	490231		Repair to steering or front-end	22.26
5	490232		Repair to engine cooling system	24.93
5	490311		Motor tune-up	49.38
5	490312		Lube, oil change, and oil filters	73.96
5	490313		Front-end alignment/wheel balance/rotation	9.21
5	490314		Shock absorber replacement	7.52
5	490316		Gas tank repair, replacement	2.68
5	490318		Repair tires and other repair work	35.15
5	490319		Vehicle air conditioning repair	16.48
5	490411		Exhaust system repair	15.64
5	490412		Electrical system repair	30.79
5	490413		Motor repair, replacement	93.54
5	490900		Auto repair service policy	6.36
3	500110	PEG	Vehicle insurance *	884.55
3	RENTVEH	PEG	Rented vehicles	33.48
3	PUBTRANS	PEG	Public transportation	709.31
4	530110		Airline fares *	447.67
4	530901		Ship fares	44.41
4	530210		Intercity bus fares	25.09
4	530510		Intercity train fares	33.41
4	LOCTRANS		Local Transportation	158.74
5	530902		School bus	3.86
5	530311		Intracity mass transit fares	89.06
5	530312		Local trans. on out-of-town trips	19.50
5	530411		Taxi fares and limousine service on trips	11.45
5	530412		Taxi fares and limousine service *	34.87
2	MEDICAL	MEG	Medical	2364.07
3	HEALTINS	PEG	Health insurance *	1133.56
4	COMHLTIN		Commercial health insurance	240.89
5	580111		Traditional fee for service plan (not BCBS)	86.93
5	580113		Preferred provider health plan (not BCBS)	153.96

Level	Code		Category Name	Expenditures
4	BCBS		Blue Cross, Blue Shield (BCBS)	308.34
5	580112		Traditional fee for svc. health plan (BCBS)	59.09
5	580114		Preferred provider health plan (BCBS)	94.74
5	580312		Health maintenance organization (BCBS)	103.03
5	580904		Commercial Medicare supplement (BCBS)	46.95
5	580906		Other health insurance (BCBS)	4.54
4	580311		Health maintenance organization (not BCBS)	324.99
4	580901		Medicare payments	127.59
4	COMEDOTH		Commercial Medicare suppl. & health ins.	131.74
5	580903		Commercial Medicare suppl. (not BCBS)	75.11
5	580905		Other health insurance (not BCBS)	56.63
3	MEDSERVS	PEG	Medical services	769.06
4	560110		Physician's services *	189.08
4	560210		Dental services *	312.14
4	560310		Eye care services	43.35
4	560400		Service by professionals other than physician	41.58
4	560330		Lab tests, x-rays	28.25
4	570110		Hospital room *	33.14
4	570210		Hospital service other than room	60.74
4	570240		Medical care in retirement community	0.00
4	570220		Care in convalescent or nursing home	53.63
4	570902		Repair of medical equipment	0.00
4	570230		Other medical care services	7.16
3	DRGS&MED	PEG	Drugs and medical supplies	461.46
4	DRUGS		Drugs	332.85
5	550210		Nonprescription drugs *	50.71
5	550410		Nonprescription vitamins	36.65
5	540000		Prescription drugs *	245.49
4	MEDSUPPL		Medical supplies	128.61
5	550110		Eyeglasses and contact lenses *	59.69
5	550340		Hearing aids	15.10
5	550310		Topicals and dressings *	40.58
5	550320		Medical equipment for general use	1.30
5	550330		Supportive and convalescent medical equip.	9.35
5	570901		Rental of medical equipment	1.31
5	570903		Rental of supportive, convalescent equipment	1.28
2	RECREATN	MEG	Recreation	3494.89
3	FEESADM	PEG	Fees and admissions	725.81

Level	Code		Category Name	Expenditures
4	610900		Recreation expenses, out-of-town trips	38.07
4	620111		Social, recreation, civic club membership *	121.76
4	620121		Fees for participant sports *	122.15
4	620122		Participant sports, out-of-town trips	37.10
4	620211		Movie, theater, opera, ballet *	141.77
4	620212		Movie, other admissions, out-of-town trips	62.18
4	620221		Admission to sporting events	48.82
4	620222		Admission to sports events, out-of-town trips	20.73
4	620310		Fees for recreational lessons *	95.15
4	620903		Other entertainment services, out-of-town trips	38.07
3	TVAUDIO	PEG	Television, radios, sound equipment	362.17
4	TELEVSN		Televisions	166.71
5	310110		Black and white TV	0.65
5	310120		Color - console TV	29.33
5	310130		Color TV – portable, table model *	42.37
5	310210		VCR's and video disc players *	31.26
5	310220		Video cassettes, tapes, and discs *	31.71
5	310230		Video game hardware and software	27.03
5	340610		Repair of TV, radio, and sound equipment	4.02
5	340902		Rental of televisions	0.35
4	AUDIO		Radios, sound equipment	195.45
5	310311		Radios	13.25
5	310312		Phonographs	0.00
5	310313		Tape recorders and players	5.19
5	310320		Sound components & component systems *	25.78
5	310331		Miscellaneous sound equipment	0.71
5	310332		Sound equipment accessories	3.30
5	310334		Satellite dishes	1.76
5	310341		CD, tape, record & video mail order	12.07
5	310342		Records, CDs, audio tapes, needles *	46.67
5	340905		Rental of VCR, radio, and sound equipment	0.08
5	610130		Musical instruments and accessories	34.75
5	620904		Rental and repair of musical instruments	2.13
5	620912		Rental of video cassettes, tapes, & discs *	49.77
3	PETSPLAY	PEG	Pets, toys, and playground equipment	518.56
4	PETS		Pets	334.56
5	610310		Pet food *	144.14
5	610320		Pet purchase, supplies, medicine	69.60

Level	Code		Category Name	Expenditures
5	620410		Pet services	26.70
5	620420		Vet services *	94.11
4	610110		Toys, games, hobbies, and tricycles *	181.46
4	610120		Playground equipment	2.54
3	ENTEROTH	PEG	Other entertainment supplies, equip., & svcs.	1006.98
4	UNMTRBOT		Un-motored recreational vehicles	172.84
5	600121		Boat without motor and boat trailers	21.00
5	600122		Trailer and other attachable campers	151.84
4	PWRSPVEH		Motorized recreational vehicles	348.87
5	600141		Purchase of motorized camper	108.05
5	600142		Purchase of other vehicle *	97.42
5	600132		Purchase of boat with motor	143.41
4	RNTSPVEH		Rental of recreational vehicles	2.54
5	520904		Rental non-camper trailer	0.35
5	520907		Boat and trailer rental out-of-town trips	0.35
5	620909		Rental of campers on out-of-town trips	0.04
5	620919		Rental of other vehicles out-of-town trips	1.06
5	620906		Rental of boat	0.00
5	620921		Rental of motorized camper	0.00
5	620922		Rental of other RV's	0.73
4	600110		Outboard motors	6.56
4	520901		Docking and landing fees	17.18
4	RECEQUIP		Sports, recreation and exercise equipment	222.18
5	600210		Athletic gear, game tables, exercise equip. *	77.30
5	600310		Bicycles	22.81
5	600410		Camping equipment	12.41
5	600420		Hunting and fishing equipment	53.59
5	600430		Winter sports equipment	13.06
5	600901		Water sports equipment	15.20
5	600902		Other sports equipment	24.33
5	620908		Rental and repair of misc. sports equipment	3.47
4	PHOTOEQ		Photographic equipment, supplies and services	201.63
5	610210		Film *	47.07
5	610220		Other photographic supplies	1.34
5	620330		Film processing *	64.29
5	620905		Repair and rental of photographic equipment	0.46
5	610230		Photographic equipment	48.37
5	620320		Photographer fees	40.10

Level	Code		Category Name	Expenditures
4	610901		Fireworks	7.50
4	610902		Souvenirs	3.57
4	610903		Visual goods	7.70
4	620913		Pinball, electronic video games	16.42
3	PERSPROD	PEG	Personal care products	406.02
4	640110		Hair care products *	80.42
4	640120		Non-electric articles for the hair	10.80
4	640130		Wigs and hairpieces	1.10
4	640210		Oral hygiene products, articles	39.48
4	640220		Shaving needs	23.15
4	640310		Cosmetics, perfume, bath preparation *	189.40
4	640410		Deodorants, feminine hygiene, misc. pers. care	47.98
4	640420		Electric personal care appliances	13.69
3	PERSSERV	PEG	Personal care services	276.23
4	650310		Personal care service *	276.23
4	650900		Repair of personal care appliances	0.00
3	READING	PEG	Reading	199.11
4	590110		Newspapers	78.18
5	590111		Newspaper subscriptions *	59.07
5	590112		Newspaper, non-subscriptions *	19.11
4	590210		Magazines	44.14
5	590211		Magazine subscriptions *	29.58
5	590212		Magazines, non-subscriptions *	14.56
4	590900		Newsletters	0.07
4	590220		Books thru book clubs	11.65
4	590230		Books not thru book clubs *	64.61
4	660310		Encyclopedia & other sets of reference books	0.46
2	EDU&COMM	MEG	Education and Communication	2015.64
3	EDUCATN	PEG	Education	89.04
4	670210		Elementary and high school tuition *	71.26
4	660210		School books, supplies, for elem. & H.S.	17.78
3	COMMICAT	PEG	Communications	1678.91
4	PHONE		Telephone services	1095.53
5	270101		Telephone services in home city excl. car *	809.34
5	270102		Telephone services for mobile car phones *	264.60
5	270103		Pager service	2.23
5	270104		Phone cards	19.36
4	690114		Computer information services *	170.92

Level	Code		Category Name	Expenditures
4	270310		Community antenna or cable TV *	412.46
3	COMP&SVC	PEG	Computers and Computer Services	247.69
4	690113		Repair of computer systems for non-bus. use	4.51
4	690111		Computers & hardware non-business use *	207.21
4	690112		Computer software/accessories non-bus. use	35.97
2	MISCMEG	MEG	Miscellaneous	6107.53
3	TOBACCO	PEG	Tobacco products and smoking supplies	228.96
4	630110		Cigarettes *	211.43
4	630210		Other tobacco products	15.66
4	630220		Smoking accessories	1.87
3	MISC	PEG	Miscellaneous	909.65
4	620925		Miscellaneous fees	4.02
4	620926		Lotteries and pari-mutuel losses	70.08
4	680110		Legal fees *	101.48
4	680140		Funeral expenses *	83.16
4	680210		Safe deposit box rental	5.68
4	680220		Checking accounts, other bank service charges	36.04
4	680901		Cemetery lots, vaults, maintenance fees	32.72
4	680902		Accounting fees *	62.33
4	680903		Miscellaneous personal services	43.40
4	710110		Credit card interest and annual fees *	334.51
4	900001		Occupational expenses	54.32
4	790600		Expenses for other properties	72.38
4	880210		Interest paid, home equity line of credit	1.29
4	620115		Shopping club membership fees	8.24
3	INSPENSN	PEG	Personal insurance and pensions	4968.93
4	LIFEINSR		Life and other personal insurance *	496.91
5	700110		Life, endowment, annuity, other personal ins.	485.85
5	002120		Other non-health insurance	11.06
4	PENSIONS		Pensions and Social Security	4472.02
5	800910		Deductions for government retirement *	104.48
5	800920		Deductions for railroad retirement	4.36
5	800931		Deductions for private pensions	431.05
5	800932		Non-payroll deposit to retirement plans	383.24
5	800940		Deductions for Social Security	3548.89

Appendix 3—Cola Survey Items and Descriptions

Adhesive Bandages. One box of 30 adhesive bandages, assorted sizes, clear or flexible. [**Note:** In Virginia, add tax to this item.] *Use:* Band Aid brand.

Airfare Los Angeles. Lowest cost round trip ticket to Los Angeles, CA, 3-week advance reservation, departing and returning midweek. (Including Saturday night stay). Price non-refundable ticket. Disregard restrictions, super-saver fares, and special promotions. In reference area, price flights from BWI for MD, National for DC, and Dulles for VA. Price all flights via Internet on same day. *Use:* Major carrier.

Airfare Miami. Lowest cost round trip ticket to Miami, FL, 3-week advance reservation, departing and returning midweek. (Including Saturday night stay). Price non-refundable ticket. Disregard restrictions, super-saver fares, and special promotions. In reference area, price flights from BWI for MD, National for DC, and Dulles for VA. Price all flights via Internet on same day. *Use:* Major carrier.

Airfare Seattle. Lowest cost round trip ticket to Seattle, WA, 3-week advance reservation, departing and returning midweek. (Including Saturday night stay). Price non-refundable ticket. Disregard restrictions, super-saver fares, and special promotions. In reference area, price flights from BWI for MD, National for DC, and Dulles for VA. Price all flights via Internet on same day. *Use:* Major carrier.

Airfare St. Louis. Lowest cost round trip ticket to St. Louis, MO, 3-week advance reservation, departing and returning midweek. (Including Saturday night stay). Price non-refundable ticket. Disregard restrictions, super-saver fares, and special promotions. In reference area, price flights from BWI for MD, National for DC, and Dulles for VA. Price all flights via Internet on same day. *Use:* Major carrier.

Alternator (Chevrolet). Price of an 105 Amp alternator for a 1996 Chevrolet Silverado 1500, Regular Cab, 4WD, 119.0″ wheelbase, 2 door, 6½ ft. fleetside bed, 4.3 liter, V6, 5-speed manual transmission, to the consumer at a dealership. Remanufactured. *Use:* Dealer recommended brand.

Alternator (Ford). Price of a 95 Amp alternator for a 1996 Ford Explore 4.0L Fuel Injected V6 with A/C and Automatic Transmission to the consumer at a dealership. Remanufactured. *Use:* Dealer recommended brand.

Alterenator (Honda). Price of an alternator for a 1996 Honda Civic DX, 1.6L, 4-cylinder, with A/C and Automatic Transmission to the consumer at a dealership. Remanufactured. *Use:* Dealer recommended brand.

Antacid. One large size bottle of extra strength tablets. 96 tablets. *Use:* Tums EX 96.

Antibacterial Ointment. One ounce tube of antibacterial ointment. *Use:* Neosporin.

Apples. Price per pound, loose (not bagged). If only bagged available, report bag weight. **Note** quality in comments. *Use:* Red Delicious.

Area Rug. Approximately 8′ x 11′ braided rug, flat woven, 3-ply yarn. Wool/nylon/rayon. Multi-colored accents. (Include sales tax and shipping and handling.) *Use:* American Tradition.

Artificial Sweetener. Fifty count package of artificial sweetener. *Use:* Equal.

Aspirin. Fifty count bottle. If no Bayer, report Bufferin or Excedrin as a substitute. *Use:* Bayer.

ATV. All terrain sports vehicle with 250–300cc engine, with electric start. *Use:* Honda 2003 Sportrax 300EX, Polaris Trailblazer 400.

Auto Finance Rate. Interest rate for a 4-year loan on a new car with a down payment of 20 percent. Assume the loan applicant is a current bank customer who will make payments by cash/check and not by automatic deduction from the account. *Use:* Interest Percentage Rate (x 100).

Auto Inspection. Annual cost of auto safety and emissions inspection required by local government. If not required annually, prorate to annual assuming 4-year trade cycle. (Certificate and inspection required every 2 years in Anchorage and Fairbanks. No inspection required in Juneau. Various inspections required in all DC areas.) *Use:* Auto Inspection.

Baby Food. 4 oz. jar strained vegetables or fruit. *Use.* Gerber 2nd Foods.

Babysitter. Minimum hourly wage appropriate to area. *Use:* Babysitting.

Baking Dish. Eight inch square glass, clear or tinted. Exclude baking dish with cover or lid. *Use:* Anchor Hocking, Pyrex.

Bananas. Price per pound. If sold by bunch, report price and weight of average sized bunch. Note quality in comments. *Use:* Available brand.

Bath Towel. Approximately 54½″ x 30″ x 30 wide, 100% cotton, medium weight. Side hem is woven selvage. Bottom hem may be folded. *Use:* Store brand.

Beer at home (Cans). Six-pack of 12 oz cans of beer. Do not price refrigerated beer unless that is the only type available. Include [liquor tax FA 5%, JU 3%] plus applicable sales tax in price. *Use:* Budweiser.

Beer Away (Casual). One glass of beer. Price only at casual restaurants where dinner is also priced. (Check Sales Tax and INCLUDE in price.) *Use:* Budweiser.

Beer Away (CH-type). One glass of beer. Price only at "Chart House" type restaurants where dinner is priced. (Check Sales Tax and INCLUDE in price.) *Use:* Budweiser.

Board Game. Standard edition, not deluxe. *Use:* Sorry.

Book, Paperback. Store price (not publisher's list price unless that is the store price) for top selling paperback book. Also price via Amazon.com. *Use:* 2nd Chance (Fiction), The Summons (Fiction).

Bowling. One game of open (or non-league) 10-pin bowling on Saturday night. Exclude shoe rental. If priced by the hour, report hourly rate divided by 5 (estimated number of games per hour) and note hourly rate in comments. Do not price duck-pin bowling. *Use:* Bowling.

Boy's Jeans. Relaxed fit, size range 9–14, pre-washed jeans. Not bleached, stone-washed or designer jeans. *Use:* Levi's 550 Relaxed Fit.

Boy's Polo Shirt. Knit polo-type short sleeve shirt with collar, solid color, cotton/polyester, size range 8–14. *Use:* Izod.

Boy's T-Shirt. Screen-printed t-shirt for boys ages 8 thru 10 (size 7–14). Pullover with crew neck, short sleeves and polyester/cotton blend. Do not price team logo shirts. [Changed post survey to Sears' Canyon River brand only.] *Use:* Store brand.

Bread, Wheat. Twenty ounce loaf, sliced, wheat bread. *Use:* Home Pride.

Bread, White. Twenty-two to 24 ounce loaf sliced white bread. *Use:* Wonder.

Breakfast Full Service. Two strips of bacon or two sausages, two eggs, toast, hash browns, coffee, and juice. (Check Sales Tax and include in price.) *Use:* Breakfast.

Breakfast, Fast Food. Egg McMuffin, hash brown and coffee. Use value meal, medium size. (Check sales tax and INCLUDE in price.) *Use:* Egg McMuffin Value Meal.

Cable TV, Digital service. One month of digital cable service. Include digital converter, and universal remote fees. Do not price value packages or premium channels i.e. Showtime, HBO, Cinemax. Do not report hook-up charges. Itemize taxes and fees as percent rates or amounts and add into price. *Use:* One month of Digital Cable TV.

Camera Film. Four-pack, 35 millimeter, 24 exposure, 400 ASA (speed). *Use:* Kodak Max.

Candy Bar. One regular size, weight approx. 1.55 to 2.13 ounce. Not king-size or multi-pack. *Use:* Snickers.

Canned Chopped Ham. Twelve ounce can of processed luncheon meat. Do not price turkey, light or smoked. *Use:* SPAM.

Canned Green Beans. Fourteen to 15 ounce can of plain cut green beans. Do not price French cut style, Italian style, or similar specialty variations. *Use:* Del Monte.

Canned Peaches. Fifteen to 16 ounce can of peaches. *Use:* Del Monte.

Canned Soup. Regular size (approx 10 ounce). Not hearty, reduced fat or salt free varieties. *Use:* Campbell's Chicken Noodle Soup.

Canned Tuna. Chunk light, packed in water (6.0 to 6.13 ounce). Do not price fancy style or albacore. *Use:* Star Kist.

Cellular Phone Plan (300). Cellular phone service with a minimum of 300 anytime minutes per month. Price via internet, all areas at the same time. Call for fee information. Price CELLULARONE Clear Across America 300 minute plan for Juneau and Fairbanks, Alaska. Use Cingular home 300 for DC area. Itemize taxes and fees as percent of rates or amounts and add to price. *Use:* CellularOne C.A.A. Plan 300 (AK), Cingular Home Plan 300 (DC area).

Cellular Phone Plan (450). Cellular phone service with a minimum of 450 anytime minutes per month. Price via internet, all areas at the same time. Call for fee information. Price GCI for Alaska. Itemize taxes and fees as percent of rates or amounts and add to price. *Use:* GCI Digital One Bronze (AK), AT&T Digital One Rate (DC area).

Cellular Phone Plan (500). Cellular phone service with a minimum of 500 anytime minutes per month. Price via internet, all areas at the same time. Call for fee information. Sprint has no wireless service in Alaska. Price ACS for Alaska. Itemize taxes and fees as percent of rates or amounts and add to price. *Use:* ACS 500 Nationwide Minutes (AK), Sprint PCS Free & Clear (DC area).

Cereal. Twenty ounce box of raisin bran cereal. *Use:* Post Raisin Bran.

Charcoal Grill. Charcoal grill, heavy gauge, porcelain-enameled, steel lid, approximately 22.5 inches in diameter. *Use:* Weber 1 Touch Silver 22½ (model 741001).

Cheese. Ten ounce package cheese. Price sharp cheddar if available. *Use:* Kraft Cracker.

Chevrolet License, Registration, Taxes and Inspection. License, registration, periodic taxes (*e.g.*, road or personal property tax, but not one-time taxes such as sales tax), and inspection (*e.g.*, safety and emissions) on a 2003 Chevrolet Silverado 1500, Regular Cab, 4WD, 119.0″ wheelbase, 2 door, 6½ ft. fleetside bed, 4.3 Liter, V6, 5-speed manual transmission. *Use:* Specified Chevrolet.

Chevrolet Silverado 1500. Purchase price of a 2003 Chevrolet Silverado 1500, Regular Cab, short box, 4 wheel drive, 119.0″ wheelbase, 2 door, 6½ ft. fleetside bed, 4.3 Liter, V6, 5-speed manual transmission. Please note the price of any special option packages. *Use:* Chevrolet Silverado.

Chuck Roast. Price per pound, fresh (not frozen or previously frozen) USDA Choice graded if available. If Choice not available, note USDA grade in comments. Price average size package. Not family-pack, value-pack, super-saver pack, or equivalent. *Use:* Chuck Roast With Bone.

Chuck Roast, boneless. Price per pound, fresh (not frozen or previously frozen) USDA Choice graded if available. If Choice not available, note USDA grade in comments. Price average size package. Not family-pack, value-pack, super-saver pack, or equivalent. Use: Chuck Roast.

Cigarettes. One pack filter kings. Not generic. (In Alaska tobacco tax is built-into price.) *Use:* Marlboro.

Clean and Check-Up. Current patient charge for routine exam, including 2-bite wing x-rays and cleaning of teeth (light scaling and polishing). No special treatment of gums or teeth. Not initial visit. Not specialist or oral surgeon. Price for an adult. *Use:* Dentist Check-Up.

Coffee, Ground. Thirteen ounce can. Do not price decaffeinated or special roasts. *Use:* Folger's.

Compact Disc. Current best-selling CD. Do not price double CD's. *Use:* Norah Jones, Come Away With Me; Avril Lavigne, Let Go.

Contact Lenses. One box of disposable contact lenses, 3 pairs in the box, a pair lasts 2 weeks. Price of one box only. *Use:* Bausch & Lomb, Aeuvue.

Cookies. Sixteen to 18 ounce package. *Use:* Nabisco Chips Ahoy!

Cooking Oil. Forty-eight fluid ounce plastic bottle. Not blends, corn oil, olive oil, or canola oil. *Use:* Crisco.

Cordless Phone. Nine hundred MHz Analog cordless phone with Caller ID and Digital Answering Machine. *Use:* Uniden 900 MHz (EXA13781).

Credit Card Interest. Obtain credit card interest rate and apply it to the national average balance ($8,562) plus any annual fees charged by the bank. Do not use Gold or Platinum cards. *Use:* Total Cost.

Cremation. Direct cremation. Includes removal of remains, local transportation to crematory, necessary body care and minimal service of the staff. Include crematory fee. Do not include price of urn. *Use:* Cremation.

Cured Ham, not canned. Price per pound a bone-in cured ham. Do not price honey glazed. If store brand cannot be determined, match the lowest priced item to store brand and note in comments. All other data, such as national brand, should be matched as a substitute. *Use:* Store brand.

Day Care. One month of day care for a 3-year old child, 5 days a week, about 10 hours per day. If monthly rate is not available, (1) obtain weekly rate, and record in the comments section, and (2) multiply weekly rate by 4.33 to obtain monthly rate. *Use:* Day Care.

Dental Crown. Cost of a full crown on a lower molar, porcelain fused to a high noble metal. Price crown only. Do not include price of preparation or restoration of tooth to accept crown. Price for an adult. *Use:* Dental Crown.

Dental Filing. Lower molar, two surfaces resin-based composite filling. Price for an adult. *Use:* Dental Filling.

Dining Table Set. Expandable, rectangular table, removable 18″ leaf, expands table from 60 to 78″ long. 40 x 30″ H. 4 chairs 19 x 19 x 37″ H. (Include sales tax and shipping and handling.) *Use:* Normandy Dining Set (5-piece).

Dinner FS (Casual). Eight to 12 ounce steak, small side dish (*e.g.*, rich or potato), side salad or salad bar, and coffee. Meal should not include dessert. If 8–12 oz unavailable, price closest size and note in comments. (Check Sales Tax and include in price.) *Use:* Steak Dinner.

Dinner FS (CH-type). Ten to 16 ounce steak, salad, rice or potato, and coffee. Do not include tip. (Check Sales Tax and include in price.) *Use:* Large Steak Dinner.

Dinner FS (PH-type). Eight to 12 ounce steak, small side dish (*e.g.*, rice or potato), side salad or salad bar, and coffee. Meal should not include dessert. If 8–12 ounce unavailable, price closest size and note in comments. (Check Sales Tax and include in price.) *Use:* Steak Dinner.

Dish Set. Corelle Abundance pattern tableware 20-piece set. Includes: four dinner plates, four luncheon plates, four bowls, four cups, and four saucers. Pattern is beige with a fruit and flower motif. *Use:* Corelle Impressions.

Disposable Diapers. Forty-eight count package, Stage 2 (child 12–18 lbs.) Not overnight or larger size diapers. *Use:* Pampers Stage 2.

Doctor Office Visit. Typical fee when medical advice or simple treatment is needed. Not initial visit. Exclude regular physical examination, injections, medications, or lab tests. Price general practitioner not pediatrician or other specialist. *Use:* Doctor Visit.

Drill, Cord. Half-inch reversible, variable speed, key-type chuck, 5.5amp electric drill with cord. *Use:* Black & Decker DR500.

Drill, Cordless. Variable speed, reversible, ⅜ in. keyless ratcheting chuck, 14.4 volt, electric drill with fast recharge,with battery charger. *Use:* DeWalt DW928K–2. (Sears Item #00926842000 Mfr. Model #DW928K–2).

Dry Clean Man's Suit. Two-piece man's suit of typical fabric. Do not price for silk, suede or other unusual materials. *Use:* Dry Cleaning.

DVD Movie. Current best-selling DVD movie. Do not price double DVDs. *Use:* Maid in Manhattan, Road to Perdition, 8 Mile.

DVD Player. Progressive scan 5-disc CD/DVD changer. **Note:** Model numbers may vary by dealer. *Use:* Sony (DVP–NC655P).

Education, K–12 Private. Cost of tuition. Note if books and uniforms are included. If price varies by grade, record in comments price for each grade. Note any annual, recurring fees, *i.e.*, registration, computer, activity, *etc.* Avoid pricing at church-affiliated schools if possible. If not possible, note any rate difference for church members versus others. *Use:* Ed, K–12 Private.

Education, K–8 Private. Cost of tuition. Note if books and uniforms are included. If price varies by grade, record in comments price for each grade. Note any annual, recurring fees, *i.e.*, registration, computer, activity, *etc.* Avoid pricing at church-affiliated schools if possible. If not possible, note any rate differences for church members versus others. *Use:* Ed, K–8 Private.

Eggs (White, Large). One dozen large eggs. Not brown eggs. If store brand cannot be determined, match the lowest priced item to store brand and note is comments. All other data, such as national brand, should be matched as a substitute. *Use:* Store brand.

Electric Broom. Electric broom style vacuum cleaner w/approx. 2–6 amps, 120 volts. Electric bag-less broom, dirt cup. *Use:* Eureka The Boss bag-less (96B).

Electric/Gas/Oil Bill. Total monthly utility cost for electricity/gas/oil (as appropriate) from utility function model. *Use:* Electric/gas/oil bill.

Fast Food Dinner Burger. Hamburger meal consisting of a Big Mac, medium fries and medium soft drink. (Check sales tax and include in price.). *Use:* Big Mac Value Meal.

Fast Food Dinner Pizza. Medium cheese pizza (without extra cheese) with salad and small soft drink. (Check sales tax and Include in price.). *Use:* Medium Cheese Pizza.

Fast food Lunch Burger. Hamburger meal consisting of a Big Mac, medium fries and medium soft drink. (Check sales tax and include in price.) *Use:* Use Big Mac Value Meal.

Fast Food Lunch Pizza. Personal size cheese pizza (without extra cheese) or one slice of cheese pizza, and a small soft drink. Do not include salad. (Check sales tax and include in price.) *Use:* Cheese Pizza.

FEGLI (Life Insurance). Federal Life Insurance. Assumed to be constant across all areas. *Use:* Fixed amount.

FEHB Insurance. Self only and family Federal Health Benefits Insurance. *Use:* OPM data on enrollment data and premiums.

FERS/CSRS Contributions. Federal retirement contributions. Assumed to be constant across all areas. *Use:* Fixed amount.

Filing Cabinet. Two-drawer metal vertical file cabinet, approx. 24″ x 14″ x 18″, file drawer sides may accommodate hanging files. [Changed post survey to Space Solutions-Basic File, model 14543 only.]. *Use:* Space Solutions, work Org brand.

Film Processing 1 Hour. One hour color film processing, in store. 24 exposure, 35 mm, 3 x 5 or 4 x 6 single prints. *Use:* One hour processing.

Ford Explorer. Purchase price of a 2003 Ford Explorer XLT, 4x4, 4 door, 4.0 liter, 6

cylinder, 5-speed automatic overdrive transmission. Please note the price of any special option packages. *Use:* Ford Explorer XLT.

Ford License, Registration, Taxes, and Inspection. License, registration, periodic taxes (*e.g.*, road or personal property tax, but NOT one-time taxes such as sales tax), and inspection (*e.g.*, safety and emissions) on a 2003 Ford Explorer XLT, 4 x 4, 4 door, 4.0 liter, 6 cylinder, 5-speed automatic overdrive transmission. *Use:* Ford as specified.

Fresh Halibut Filet. Price per pound of fresh halibut fillet. Do not price previously frozen (PF) or specially prepared varieties. Do not price family-pack value-pack, super-save pack, or equivalent. *Use:* Fresh Halibut Filet.

Frozen Fish Fillet. Price of frozen ocean whitefish breaded filets, Crunchy Lemon Herb, 10 count. *Use:* Gorton's breaded fish fillets.

Frozen Orange Juice. Twelve fluid ounce orange juice concentrate (makes 48 fl oz). Do not price calcium fortified, pulp free, country style, *etc. Use:* Minute Maid.

Frozen Peas. Sixteen ounce package of frozen peas. *Use:* National brand. (Bird's Eye) [Changed post survey to C&W Petite peas.]

Frozen Turkey, National Brand. Price per pound of USDA graded, frozen turkey. Do not price fresh turkey. Try to price approximately 14-16 pound bird *Use:* Butterball Turkey.

Frozen Turkey, Store Brand. Price per pound of USDA graded, frozen turkey. Do not price fresh turkey. Try to price approximately 10-13 pound bird. *Use:* Store brand.

Frozen TV Dinner. One 11 ounce (approximate) frozen dinner with vegetable and/or other condiment. Do not price Hungry Man or equivalent extra-portion sizes. *Use:* Swanson Turkey Breast, Swanson Angus Salisbury Steak.

Frozen Waffles. Ten waffles per package. *Use:* Eggo.

Fruit Drink. One gallon (128 fl oz) bottle. *Use:* Hi-C, Hawaiian Punch.

Fruit Juice. Forty-eight ounce glass or plastic bottle of juice. *Use:* Ocean Spray Cranberry Juice.

Gas. Price per gallon for self-service unleaded regular gasoline. *Use:* Major brand.

Gelatin. Three ounce box gelatin dessert. *Use:* JELLO-O.

General Admission Evening Film. Adult price for regular length, current-release (currently advertised on television). Report weekend evening price if different from weekday. *Use:* Movie.

Girl's Dress. Cotton blend short or long-sleeved dress appropriate for school. Exclude extra ornamentation. Size range 7–14 (for ages 8–10). Do not price in Junior's section. *Use:* Zoey, Girl Code.

Girl's Jeans, Levi's 514. Slim fit in the seat and thighs with flared legs and traditional 5-pocket styling, for girls ages 8–10 (size 7–14). [Changed post-survey to Levi's 514 in place of 517]. *Use:* Levi's 514.

Girl's Jeans, Store brand. Girls regular fit, pre-washed, 5-pocket jeans, for girls ages 8–10 (size 7–14). *Use:* Store brand, (JC Penney's brand is Arizona.)

Girl's Polo Type Top. Girl's polo cotton blend, striped or solid pattern. Sizes 7–14. May find sizes S, M, and L, which is acceptable. Do not price in Junior's section. Note brand in comments. *Use:* Available brand.

Gold Ball Earrings hollow (Dept). One pair 6mm, 14K hollow, gold ball earrings for pierced ears. If not available, but 4, 5, 7 or 8mm are available, record each separately as a substitute. Do not price gold filled. *Use:* Store brand.

Ground Beef (15% fat). Price per pound, fresh (not frozen or previously frozen) USDA Choice graded if available. If Choice not available, note USDA grade in comments. Price average size package. Not family-pack, value-pack, super-saver pack, or equivalent. *Use:* 15% fat.

Ground Chuck or 20% fat Ground Beef. Price per pound, fresh (not frozen or previously frozen) USDA Choice graded if available. If Choice not available, note USDA grade in comments. Use average size package. Not family-pack, value-pack, super-saver pack, or equivalent. *Use:* Ground chuck or 20% fat Ground beet.

Hamburger Bunds. Eight-count package of sliced enriched white hamburger buns. Do not price store brand, lite, whole wheat, or sesame seed buns. *Use:* Wonder.

Hand-Held Vacuum. Cordless, 7.2 volt, hand-held vacuum with upholstery brush and crevice tool. *Use:* Black & Decker DustBuster.

Health Club Membership. One-year regular individual membership for existing member. No special offers. If no yearly rate, price month and prorate. Service must include free weights, cardiovascular equipment, and aerobic classes. Note if pool, tennis, racquet ball, or other service included. (Gold's Gym-type) *Use:* Health Club.

Honda Civic. Purchase price of a 2003 Honda Civic Sedan DX, 4 door, 1.7 liter, SOHC, 4 cylinder, automatic transmission, without side airbags. Add A/C. Please note the price of any special option packages. *Use:* Honda Civic DX.

Honda License, Registration, Taxes, & Inspection. License, registration, periodic taxes (*e.g.*, road or personal property tax, but NOT one-time taxes such as sales tax), and inspection (*e.g.*, safety and emissions) on a 2003 Honda Civic Sedan DX, 4 door, 1.7 liter, 4 cylinder, automatic transmission. *Use:* Honda as specified.

Hospital Room (Private). Daily charge for a private room only. Include food and routine care. Exclude cost of operating room, surgery, medicine, lab fees, etc. Do not price speciality rooms, *e.g.* those in cardiac care units. *Use:* Private Room.

Hospital Room (Semi-Private). Daily charge for a semi-private room only. Include food and routine care. Exclude cost of operating room, surgery, medicine, lab fees, *etc.* Do not price speciality rooms, *e.g.*, those in cardiac care units, medicine, lab fees, *etc.* Do not price speciality rooms, *e.g.*, those in cardiac care units. *Use:* Semi-Private Room.

Hot Dogs. Sixteen ounce package, all beef, USDA graded. Do not price chicken, turkey, extra lean, or fat free frankfurters. *Use:* Oscar Mayer Beef Franks.

Housekeeping (Hourly Wage). Local hourly wage for a housekeeper or janitor. Bureau of Labor Statistics (BLS) code 37–2012. *Use:* BLS wage data.

Ice Cream Cone (Gourmet). Regular (one scoop) vanilla ice cream cone. Not frozen yogurt or soft-service ice cream. *Use:* Ice Cream Cone (Gourmet).

Ice Cream Cone. Regular (one scoop) vanilla ice cream cone. Not frozen yogurt on soft-serve ice cream. *Use:* Ice Cream Cone.

Ice Cream. One-half gallon vanilla flavored. Not ice milk, fat free, sugar free, or frozen yogurt. *Use:* Breyers.

Infant's Sleeper. One-piece sleeping garment with legs, covering the body including the feet. Can be packaged or hanging. *Use:* Carters.

Instant Rice—Long Grain. Instant white rice, long grain. *Use:* Uncle Ben's Instant Rice.

Insurance, Chevrolet Regular. Annual premium for Chevrolet; 35-year-old married male driver, currently insured, no accidents/violations. Commuting 15 miles one-way/day, annual 15,000 miles. BI 100/300, PD 25, Med 15 or PIP 50, UM 100/300. Comp 100 deductible. Col 250 deductible. If this level of coverage is not available, price the policy with the closest coverage. *Use:* National company, if available.

Insurance, Ford Regular. Annual premium for Ford; 35-year-old married male driver, currently insured, no accidents/violations. Commuting 15 miles one-way/day, annual 15,000 miles. BI 100/300, PD 25, Med 15 or PIP 50, UM 100/300. Comp 100 deductible. Col 250 deductible. If this level of coverage is not available, price the policy with the closest coverage. *Use:* National company, if available.

Insurance, Honda Regular. Annual premium for Honda; 35-year-old married male, currently insured, no accidents/violations. Commuting 15 miles one-way/day, annual 15,000 miles. BI 100/300, PD 25, Med 15 or PIP 50, UM 100/300. Comp 100 deductible. Col 250 deductible. If this level of coverage is not available, price the policy with the closest coverage. *Use:* National company, if available.

Internet Service, High Speed. Monthly charge for unlimited High Speed Internet access, 1.5M/128K with 20 gigabytes transfer approximately, via DSL or Cable. Price via internet, all areas at the same time. Call for fee information. Itemize taxes and fees as percent of rates or amounts and add into price. *Use:* Local Provider.

Jelly. Eighteen ounce jar of grape jelly. *Use:* Welch's.

Ketchup. Twenty-four ounce plastic squeeze bottle. *Use:* Heinz.

Kitchen Range (Electric)—1. 4.65 cu ft, 30″ electric, free standing, self-cleaning, smooth top range. **Note:** Model numbers may vary by dealer. [Original electric range for survey not found in Anchorage. This item was found in DC and AN. Added post survey.] *Use:* Whirlpool RF368LXKQ.

Kitchen Range (Electric)—2. 4.65 cu ft, 30″ electric, free standing, self-cleaning, smooth top range. **Note:** Model numbers may vary by dealer. *Use:* Whirlpool (FR364PXKW).

Kitchen Range (Electric)—3. 5.0 cu ft, 30″ electric, free standing, smooth top range. **Note:** Model Numbers may vary by dealer. *Use:* GE Spectra (JBP64BBWH).

Kitchen Range (Gas)—1. Thirty inch free standing gas range. **Note:** Model numbers may vary by dealer. *Use:* GE (JGBP30BEAW).

Kitchen Range (Gas)—2. Thirty inch free standing gas range. **Note:** Model numbers may vary by dealer. [Original gas range for survey not found in Juneau. This item was found in DC and JU. Added post survey.] *Use:* Whirlpool SF357PEKQ.

Laptop Computer. Gateway laptop with Mobile Intel Pentium 4 processor, 2.4 GHz, 512 MB, 40GB Hard Drive, 3.5″ Diskette Drive, 24×/10×/24× CDRW and 8× DVD combo, 15″ monitor. **Note:** 600S package includes a carrying case and an extended service plan. (Include tax and shipping and handling, if applicable.) *Use:* Gateway Laptop 600S.

Laundry Soap. Eighty fluid ounce liquid household laundry detergent: *Use:* Wisk Ultra Sport.

Lawn Care (Hourly Wage). Local wage for gardener/grounds keeper. BLS code 37–3011. *Use:* BLS wage data.

Lawn Mower, Self Propelled. Twenty-one to 22 inch self-propelled 6.5 HP gas lawn mower. [Changed post survey to Toro brand only.] *Use:* Craftsman (37844), Toro (20017).

Lawn Trimmer, Gas. Gas powered 25cc 2-cycle engine, 17–18″ wide cut. Straight or curved shaft okay. Bump or automatic line feed. **Note:** Model numbers may vary by dealer. *Use:* Craftsman 17″ Gas Line Trimmer, Homelite (UT20778).

LD Call Chicago. Cost of a 10 minute long distance call using regional carrier, received on a weekday in Chicago at 8 p.m. (Chicago time); direct dial. Itemize taxes and fees as percent of rates or amounts and add to price. *Use:* AT&T.

LD Call Los Angeles. Cost of a 10 minute long distance call using regional carrier, received on a weekday in LA at 8 p.m. (LA time); direct dial. Itemize taxes and fees as percent of rates or amounts and add to price. *Use:* AT&T.

LD Call New York. Cost of a 10 minute long distance call using regional carrier, received on a weekday in NY at 8 p.m. (NY time); direct dial. Itemize taxes and fees as percent of rates or amounts and add to price. *Use:* AT&T.

Lettuce. Price per pound of iceberg lettuce. If only sold by the head, note weight of an average head in comments. *Use:* Available brand.

Lipstick. One tube. *Use:* Revlon Super Lustrous, Revlon Moondrops.

Living Room Chair. Padded rocker/recliner. Side-handle for reclining. High arms and wide seat. Covered with a textured chenille fabric. (Include sales tax and shipping and handling.) *Use:* Rocker/Recliner.

Lunch FS (PH-type). Cheeseburger platter with fries and small soft drink. (Check sales tax and include in price.) Record burger weight in comments. *Use:* Cheeseburger Platter.

Lunch Full-Service (Casual). Cheeseburger platter with fries and small soft drink. (Check sales tax and INCLUDE in price.) Record burger weight in comments. *Use:* Cheeseburger.

Lunch Meat. Eight ounce package. Price All-Beef variety. *Use:* Oscar Mayer Beef Bologna.

Magazine Subscription. One-year home delivery price of a magazine. *Use:* Time.com.

Magazine. Store price (not publisher's list price unless that is the store price) for a single copy. *Use:* Time.

Man's Athletic Shoe (Dept—1). Man's walking shoe, soft leather upper. Full-length Phylon midsole with low-pressure Air-Sole units in heel and forefoot. Composition rubber outsole. *Use:* Reebok Classic.

Man's Athletic Shoe (Dept—2). Man's walking shoe. Full-grain leather upper, reflective material, polyurethane removable sock liner, DMX walk chamber. Composition rubber outsole. *Use:* Reebok Men's Platinum DMX.

Man's Athletic Shoe (Shoe). Man's walking shoe, soft leather upper. Full-length Phylon midsole with low-pressure Air-Sole units in heel and forefoot. Composition rubber outsole. *Use:* Reebok Classic.

Man's Boot. Man's boot, full-grain waterproof leather and vulcanized rubber. Liner has an acrylic cuff. Liner also has Heat Pack Pocket. Inside, a 13mm Texel® liner. *Use:* Polar Cap Pac Boot (SC–83–0147).

Man's Dress Shirt. White or solid color long sleeve button cuff plain collar dress shirt. Approximately 35% cotton/65% polyester. *Use:* Arrow, Van Heusen.

Man's Jeans. Levi's® Red Tab 550 Relaxed-Fit Jeans. *Use:* Levi's Red Tab 550.

Man's Khaki Pants. Man's casual khakis, any color, relaxed-fit or classic fit, no wrinkle, flat-front or pleated, cotton twill. *Use:* Dockers Flat Front, Dockers Pleated.

Man's Leather Dress Shoe. Full leather lining, oak tanned/buffed leather outsoles, polished leather uppers, steel shank. *Use:* Bostonian Akron.

Man's Leather Dress Shoe (Catalog). Leather oxford. Cushioned insole and heel pad. Combination leather and rubber sole. (Can be a wingtip). *Use:* Bostonian Barrie.

Man's Leather Dress Shoe (Dept). Leather oxford. Cushioned insole and heel pad. Combination leather and rubber sole. (Can be a wingtip). *Use:* Bostonian Barrie, Rockport.

Man's Parka. Man's goose down parka 65/35 polyester/cotton, weatherproof Teflon® finish. Waist drawstring, hand-warmer pockets, button-flap cargo pockets, pockets secure with Velcro®, Medium size. Price regular sizes, not tall. (Include sales tax and shipping and handling.) *Use:* North Slope Goose Down Parka.

Man's Regular Haircut, Salon. Wash, regular haircut, and blow dry for short to medium length hair. Price hair salons in major department stores and malls. *Use:* Man's Regular.

Man's Sport Watch. Leather strap, plastic face, water-resistant up to 100 meters, digital display, date feature, lap counter, countdown timer, 12/24 hour time, 2nd time zone with date, 3 alarms, strap/watch colors may vary. Additional models that could be matched are 48001, 47871, and 48021. Different models represent different color of face or strap. *Use:* Timex Expedition (48042).

Man's Suit. Double-breasted worsted wool suit coat, flap pockets, chest pocket, dry clean. Regular size, full acetate lining. Price as a separate, not combo. (Include sales tax and shipping and handling.) *Use:* Stafford Suit Coat.

Man's Thermal Underwear. Thermax Medium Weight Crew—Regular. Top has rib-knit cuffs. Machine washable. (Include tax and shipping and handling. Standard Express shipping for order amount: $15.01–$30.00 is $5.95.) *Use:* CABELA's Thermax (SC–900949).

Man's Undershirt. One package of three Men's t-shirts. V-neck. White 100% cotton undershirts with short sleeves. *Use:* Jockey.

Margarine. One (4 sticks) regular margarine. Do not price reduced fat variety. *Use:* Parkay.

Mattress and Foundation. Full-size mattress and foundation. Quilted cotton/polyester blend layer, convoluted supersoft polyfoam. Mattress thickness: 11¾″. Shock absorber foundation. (Include sales tax and shipping and handling.) *Use:* Sealy Premium Plush Full.

Mayonnaise. Thirty-two ounce jar of mayonnaise. Do not price light or fat free. *Use:* Kraft.

Measuring Tape. Twenty-five foot tape measure with powerlock. *Use:* Stanley (33–425D).

Milk, 2%. One gallon (128 FL oz) of 2% butterfat milk. If store brand cannot be determined, match the lowest priced item to store brand and note in comments. All others, such as national brand, should be matched as a substitute. *Use:* Store brand.

Mover Driver (Hourly Wage). Local government hourly rate for truck driver light. BLS code 53–3033. *Use:* BLS wage data.

Newspaper Subscription, Regional. One-year of home delivery of the largest selling daily regional paper (including Sunday edition) distributed in the area. Do not include tip. Fairbanks (Fairbanks Daily News Miner); Anchorage and Juneau (Anchorage Daily News); DC (The Washington Post). *Use:* Newspaper, home delivery.

Newspaper, Newsstand, National. Price of a USA Today newspaper at a newsstand (in box). *Use:* USA Today (newsstand).

Newspaper, Newsstand, Regional. Price of a regional newspaper at a newsstand (in box). Fairbanks (Fairbanks Daily News Miner); Anchorage and Juneau (Anchorage Daily News); DC (The Washington Post). *Use:* Newspaper (Newsstand, regional).

Non-Aspirin Pain Reliever. Sixty tablets of extra-strength acetaminophen. Not caplets or gel caps. If number of tablets differs, note and prorate. *Use:* Tylenol.

Oranges. Price per pound of loose, large, navel oranges. If only bagged oranges are available, also report the weight of the bag. Note quality in comments. *Use:* Navel.

Parcel Post to Chicago. Cost to mail a 5 pound package to Chicago using regular mail delivery service. *Use:* Parcel Post to Chicago.

Parcel Post to Los Angeles. Cost to mail a 5 pound package to Los Angeles using regular mail delivery service. *Use:* Parcel Post to Los Angeles.

Parcel Post to New York. Cost to mail a 5 pound package to New York using regular mail delivery service. *Use:* Parcel Post to New York.

Pen. Ten-pack round stick medium point pen. Not crystal or clear type. *Use:* Paper Mate.

Pet Food. Twenty pound bag of adult dry dog food. *Use:* Iams Chunks Dog Food.

Piano Lessons. Monthly fee (one lesson per week, half hour beginner private lesson).

Price through a music studio if possible. If only 1 hour per week lessons available, prorate. *Use:* Piano Lessons.

Plant Food. Twenty-four ounce (1.5 lb) container of granulated indoor plant food. *Use:* Miracle Grow.

Pork Chops Boneless. Price per pound, fresh (not frozen or previously frozen) USDA Choice graded if available. If Choice not available, note USDA grade in comments, Price average size package. Not family-pack, value-pack, super-saver pack, or equivalent. *Use:* Center Cut.

Portable CD Player: Portable CD player with headphones, with electronic skip protection, CD–R/RW compatible. *Use:* Sony Walkman (D–E350), Sony D–EJ360.

Potato Chips. Twelve ounce bag of regular potato chips. *Use:* Lay's 12 oz.

Potatoes. Price per pound of loose potatoes. If only bag potatoes available, report smallest size as substitute and note weight. (Russet is also known as a baking potato or an Idaho potato). *Use:* Russet Baking.

Prescription Drug 1. Twenty mg of 30 capsules of non-generic Prilosec. *Use:* Prilosec.

Prescription Drug 2. Two hundred and fifty mg of 30 capsules of generic Amoxicil (survey Amoxicillin). *Use:* Amoxicillin.

Preserved, Low Sugar. Strawberry preserves, low sugar, 15.5 oz. *Use:* Smuckers.

Preserves, Sugar Free. Strawberry preserves, sugar free, 12.75 oz. Do not price low sugar jelly or light sugar free jam. *Use:* Smucker's Light Preserves.

Printer, Color. Color Inkjet printer, 5760 x 720 dpi, 14 ppm black and white, 10 ppm color, USB and parallel connection. USB cable is not included. (Include tax and shipping and handling.) *Use:* Gateway, Epson Stylus C62.

Red Roses. One dozen long stemmed, fresh cut red roses wrapped in floral paper. Purchased in store; not delivered. Not boxed or arranged in vase. *Use:* Dozen red roses.

Refrigerator (Side-by-Side). 25.4 cu ft (approximately), side-by-side refrigerator with ice and water dispenser, water filtration system, adjustable glass shelves, crisper, meat pan, up-front temperature controls. **Note:** Model numbers may vary by dealer. *Use:* Whirlpool (ED5FTGXKQ).

Rental Data. Rental indexes times 10 averages from hedonic regressions. *Use:* OPM rental analyses.

Renter Insurance 1. One month of renters insurance (HO–4) coverage for $25,000 of contents. Policy must cover hurricane, earthquake, and other catastrophic damage. *Use:* National carrier, if available.

Renter Insurance 2. One month of renters insurance (HO–4) coverage for $30,000 of contents. Policy must cover hurricane, earthquake, and other catastrophic damage. *Use:* National carrier, if available.

Renter Insurance 3. One month of renters insurance (HO–4) coverage for $35,000 of contents. Policy must cover hurricane, earthquake, and other catastrophic damage. *Use:* National carrier, if available.

Rip Claw Hammer. Twenty ounce, rip claw jacketed graphite hammer. *Use:* Stanley (51-508).

Round Roast. Price per pound, fresh (not frozen or previously frozen) USDA Choice graded if available. If Choice not available, note USDA grade in comments. Price average size package. Not family-pack, value-pack, super-saver pack, or equivalent. *Use:* Eye Round Roast.

Round Steak. Price per pound, fresh (not frozen or previously frozen) USDA Choice graded if available. If Choice not available, note USDA grade in comments. Price average size package. Not family-pack, value-pack, super-saver pack, or equivalent. *Use:* Boneless Top Round.

Salt. Twenty-six ounce box of iodized salt. *Use:* Morton.

Shampoo. Fifteen ounce bottle for normal hair. *Use:* VO5.

Sheets. Two hundred and thirty to 250 thread count cotton or cotton polyester blend. Queen size fitted or flat sheet. Not a set. [Changed post survey to Springmaid brand, 300 thread count.] *Use:* Store brand.

Shop Rate (Chevrolet). Hourly shop rate for a mechanic at a Chevrolet dealership. *Use:* Chevrolet dealer.

Shop Rate (Ford). Hourly shop rate for a mechanic at a Ford dealership. *Use:* Ford dealer.

Shop Rate (Honda). Hourly shop rate for a mechanic at a Honda dealership. *Use:* Honda dealer.

Sirloin Steak. Price per pound, fresh (not frozen or previously frozen) USDA Choice graded if available. If Choice not availalbe, note USDA grade in comments. Price average size package. Not family-pack, value-pack, super-saver pack, or equivalent. *Use:* Boneles sirloin.

Skiing. Lift ticket for downhill skiing. Day pass for Saturday. (High or Peak season, non-holiday, locally determined). (Changed from extended-day pass, post survey.) *Use:* Skiing (Lift Ticket).

Sliced Bacon. Sixteen ounce package USDA grade, regular slice. Not Canadian bacon, extra thick sliced, or extra lean. *Use:* Oscar Mayer.

Snack Cake. One box (10 to a box) cream-filled type cake deserts. Not fresh desserts, individual servings, or larger family-style containers. *Use:* Hostess Twinkees.

Snow tire (Chevrolet, AK). One snow tire, size (LT245/75R16) for a 2000 Chevrolet Silverado 1500, regular cab, 4WD. Do not include mounting, balancing, or road hazard warranty. *Use:* Bridgestone Winter Dueler w/ UNI/T.

Snowblower. Current year model, two stage, 6.5 HP, 196 CC, 24″ clearing, rubber track driven snowblower with 210 degree adjustable discharge chute. *Use:* Honda.

Soft Drink. Twelve-pack of cola soda 12 ounce cans. *Use:* Coca-Cola.

Spaghetti, Dry (National brand). Sixteen ounce box or bag of pasta spaghetti. *Use:* Barilla.

Stamp. Cost of mailing a one ounce letter first class. *Use:* First class stamp.

Studded Snow tire (Chevrolet, AK). One snow tire with studs, size (LT245/75R16 load range C or E), for a 2000 Chevrolet Silverado 1500, regular cab, 4WD. Do not include mounting, balancing, or road hazard warranty. *Use:* Cooper Discoverer M+S.

Studded Snow Tire (Ford, AK). One pre-studded snow tire, size (P235/75R15) for a 2000 Ford Explorer XLT, 4-door. Do not include mounting, balancing, or road hazard warranty. *Use:* Firestone Winterfire, Cooper Weather-Master S/T.

Studded Snow Tire (Honda, AK). One pre-studded snow tire, size (P185/65R14 service description 85T or 86T) for a 2000 Honda. Do not include mounting, balancing, or road hazard warranty. *Use:* Firestone Winterfire, Cooper Weather-Master S/T.

Sugar. Fiver pound bag of granulated cane or beet name brand sugar. Do not price superfine, store brand, or generic. *Use:* National brand (Domino).

Tax Preparation. Flat rate for preparing individual tax Federal 1040 (long form), Schedule A, plus State or local equivalents. (**Note:** Some areas only have local income taxes.) Note number of forms in comments. Assume typical itemized deductions. If only hourly rate available, obtain estimate of the time necessary to prepare forms, prorate, and report as a substitute. *Use:* Price at H&R Block-type outlets.

Taxi Fare. Five mile cab fare, one way, from major airport. Include fare for only one passenger with two suitcases. (In DC, use Dulles, BWI and National.) Include applicable taxes and record in comments. *Use:* Taxi fare.

Telephone Service. Monthly cost for unmeasured touchtone service. Exclude options such as call waiting, call forwarding or fees for equipment rental. Itemize taxes and fees as percent of rates or amounts and add into price. *Use:* Local phone service.

Television 27″ flat-screen. Twenty-seven inch flat-screen, stereo, color, WEGA TV, with remote. **Note:** Model numbers may vary by dealer. *Use:* Sony Trinitron (KV–27FS100).

Tennis Balls. One can of three heavy-duty yellow felt. Not special gas-filled or premium type. *Use:* Wilson, Penn.

Tire Regular (Chevrolet, DC area & AK Average). One tire, size (LT245/75R16 load range C or E) "original equipment" quality, for a 2000 Chevrolet Silverado 1500 pickup 4x4 regular cab, short box. Do not include mounting, balancing, or road hazard warranty. *Use:* Goodyear Wrangler RT/S, Bridgestone Dueler A/T w/UNI–T, Cooper Discoverer A/T.

Tire Regular (Ford, DC area & AK Average). One tire, size (P235/75 R15 service description 105S) for the 2000 Ford Explorer XLT, "original equipment" quality, black sidewall. Do not include mounting, balancing, or road hazard warranty. *Use:* Goodyear Wrangler RT/S, Bridgestone Dueler A/T w/UNI–T, Cooper Discoverer A/T.

Tire Regular (Honda, DC area & AK Average). One tire, size (P185/65 R14 service description 85S) for the 2000 Honda Civic DX, "original equipment" quality, black sidewall. Do not include mounting, balancing, or road hazard warranty. *Use:* Goodyear Integrity, Bridgestone Potenza RE92, Cooper Lifeliner Classic II.

Tire Regular (Chevrolet, AK). One tire, size (LT245/75 R16 load range C or E) "original equipment" quality, for a 2000 Chevrolet Silverado 1500 pickup 4x4 regular cab, short box. Do not include mounting, balancing, or road hazard warranty. *Use:* Goodyear Wrangler RT/S, Bridgestone Dueler A/T w/ UNI–T, Cooper Discoverer A/T.

Tire Regular (Ford, AK). One tire, size (P235/75 R15 service description 105S) for the 2000 Ford Explorer XLT, "original equipment" quality, black sidewall. Do not include mounting, balancing, or road hazard warranty. *Use:* Goodyear Wrangler RT/S, Bridgestone Dueler A/T w/UNI–T, Cooper Discoverer A/T.

Tire Regular (Honda, AK). One tire, size (P185/65 R14 service description 85S) for the 2000 Honda Civic DX, "original equipment" quality, black sidewall. Do not include mounting, balancing, or road hazard warranty. *Use:* Goodyear Integrity, Bridgestone Potenza RE92, Cooper Lifeliner Classic II.

Toilet Tissue. Twelve-count single-roll type. *Use:* Charmin.

Tomatoes. Price per pound of medium-size tomatoes. If only available in celo pack, note price and weight of average size package. Not organic, 'hydro', plum, or extra fancy tomatoes. Note quality in comments. *Use:* Available brand.

Two-Slice Toaster. Cool-touch exterior, auto shutoff, extra-wide slots, slide-out front access crumb tray, rotary shade selector. *Use:* Proctor Silex Bagel Smart 22415.

Veterinary Services. Routine annual exam for a small dog (approx. 25 to 30 lbs.) No booster shots, medication, or other extras such as nail clipping, ear cleaning, *etc. Use:* Vet.

Video Rental. One video tape, 1-day or minimum rental rate for Saturday7 night. Do not price new releases, oldies or classics where price is different from a regular rental. *Use:* Spiderman, if available.

Wash (Front Load) Single Load. One load, regular size, Front Loading washing machine. Exclude drying. *Use:* Coin laundry front-load.

Wash, (top load) Single Load. One load, regular size, Top Loading washing machine. Exclude drying. *Use:* Coin laundry top load.

Washing Machine. 12-cycle super capacity plus washer. **Note:** Model numbers may vary by dealer. *Use:* (WBSE3120BW).

Water Bill. Average monthly consumption in gallons and dollars (cost for first __ gallons; cost for over __ gallons), sewage and related charges, and customer service charge. *Use:* Water bill.

Wedding Band Non-Comfort (Dept). Men's size 10, 14K yellow gold, 5mm plain wedding band. Non-comfort fit. *Use:* Store brand.

Will Preparation. Hourly Rate to prepare a simple will. Not paralegal. If only flat fate available, record amount and divide by average amount of hours it would take to prepare will. Note is comments. *Use:* Legal service.

Wine at Home. Chardonnay wine, any vintage, 750 ml. Include liquor tax: Fairbanks 5%, Juneau 3% plus applicable sales tax in price. *Use:* Turning Leaf.

Wine Away (Casual). One glass of house wine at casual restaurant where meal is also priced. (Check Sales Tax and include in price). *Use:* House brand.

Wine Away (CH-type). One glass of house white wine at Chart House type restaurant where meal is also priced. (Check Sales Tax and include in price). *Use:* House wine.

Woman's Athletic Shoe (Dept-1). Woman's walking shoe, soft leather upper. Full-length Phylon midsole with low-pressure Air-Sole units in heel and forefoot. Composition rubber outsole. *Use:* Reebok Classic.

Woman's Athletic Shoe (Dep-2). Woman's walking shoe. Full-grain leather upper, beveled heel, DMX walk chamber, transition bridge, composition rubber outsole. [Added post survey.] *Use:* Reebok Walk Platinum DMX.

Woman's Athletic Shoe (Shoe). Woman's walking shoe, soft leather upper. Full-length Phylon midsole with low-pressure Air-Sole units in heel and forefoot. Composition rubber outsole. *Use:* Reebok Classic.

Woman's Blouse (Polyester). One hundred percent polyester short sleeve, button front blouse with minimum or no trim. Washable. May or may not have shoulder pads. (Laura Scott is at Sears) (Notations is at Macy's and Hecht's) (Liz Baker is at JCPenney). Price regular size. Do not price in Woman's or Plus size. Note brand in comments. *Use:* Available brand.

Woman's Blue Jeans. Blue jeans. Machine washable, five pocket with zipper fly, loose fit, straight leg or tapered. Price regular size. Do not price in Woman's or Plus size sections. Do not price elastic waist. *Use:* Lee original relaxed fit.

Woman's Boot. Woman's waterproof insulated boot. 7½" shaft. Full grain leather upper, insulation up to −45°F, front zipper for easy on-off. Price regular size. (Include sales tax and shipping handling.) *Use:* Columbia Bugazip (SC–83–0063).

Woman's Casual Khakis. Woman's casual khakis, any color, flat-front or pleated pant, machine washable. Price regular size. Do not price in Woman's or Plus size sections. *Use:* Dockers Flat Front, Dockers Pleated.

Woman's Cut and Style. Wash, cut, and styled blow dry for medium length hair. Exclude curling iron if extra. Price hair salons in major department stores and malls. *Use:* Woman's haircut.

Woman's Dress. Woman's reversible, sleeveless, 100% rayon or rayon blend, long dress, length is past the knee, any print. Price regular size. Do not price in Woman's or Plus size. *Use:* Sag Harbor.

Woman's Parka. Woman's down Parka, micro-fiber shell, removable natural coyote fur ruff, suede leather piping across chest and back, two-way YKK® zipper, button storm flap, two cargo pockets, zippered internal pocket, drawstring waist and adjustable cuffs. Price regular sizes, not tall. (Include sales tax and shipping and handling.) *Use:* Fairbanks Parka (SC–91–1577).

Woman's Pump Shoes. Plain pump [not open toed or open back style), tapered approx. 2" heel matches shoe (not stacked/wooden type), leather uppers, the remaining parts are man-made materials. No extra ornamentation, extra thick heels, and wedge-type heel. Do not price leather sole shoe. (I Love Comfort, Allure, Caressa, 9.2.5 are known brands.) *Use:* Store brand.

Woman's Sweater. Short sleeve sweater, no buttons or collar. 100% cotton or cotton blend. Price regular size. Do not price in Woman's or Plus size. *Use:* Sag Harbor.

Woman's Wallet. Clutch/checkbook style wallet. Split-grain, cowhide leather. Not eel skin, snake skin or other varieties. *Use:* Buxton, Mundi.

Appendix 4—COLA Rental Survey Data Collection Elements

Data element	*Description of data*
Comparable identification code*	A five character code that is unique to each comparable and structured as follows: Position 1 is the letter corresponding to the area in which the comparable is located, *i.e.*, A, B, C, or D. Position 2 is the letter corresponding to the location as identified in which the comparable is located. Position 3 is the letter corresponding to the class of housing shown in Section A.3.5.1. Positions 4 and 5 is a sequence number 01 through 99 that identifies the order in which that comparable was collected relative to other comparables of the same class in the same location and area.
Comparable's address*	Complete location address of the comparable, including ZIP code, NOT Post Office Box, and name of multi-family complex (as applicable).
How initially identified*	Internet, broker, drive-by, newspaper, published rental listing (*e.g.*, as often found in supermarkets), other.
Person providing information, if applicable.	Name and title of person providing information about the comparable. Examples of title: agent, landlord, tenant.
Address, *etc.* of person providing information.	Complete mailing address, phone number(s), and email address, as appropriate, of person providing information about the comparable.
Community name, if applicable	Name of community in which comparable is located.
Year built	Year built or year of last remodeling affecting 50% or more of the structure.
Finished space*	Total sq. ft. of finished space (*i.e.*, living-area).
Basement*	Yes/no.
Bedrooms*	Number of bedrooms.
Bathrooms*	Number of bathrooms (½bath is toilet and sink; full bath is toilet, sink, shower, and/or tub).
Arctic entrance*	Yes/no.
Balcony*	Covered, uncovered, none.

Data element	Description of data
Deck*	Covered, uncovered, none.
Patio*	Covered, uncovered, none.
External condition*	Excellent, good, poor. Excellent condition means the unit is new or like new condition (*e.g.,* recently remodeled, refurbished, or restored). Good condition means the unit shows signs of age but is in good repair (*e.g.,* the paint is not peeling, there are no broken windows, sagging fences, or missing gutters; the yard is maintained; and there are no disabled cars, appliances, or other trash around the property). Poor condition means the unit is habitable but needs repair and the property needs maintenance and/or trash removal.
Neighborhood condition*	Desirable, average, undesirable. A desirable neighborhood generally has homes in excellent or good condition. Commercial services are separate (*e.g.,* clustered in strip malls or business parks). There are many parks and/or open public spaces. Roads and parks are well-maintained and clean. Other public services, including schools, are believed to be good; and the crime rate is perceived to be low. An average neighborhood generally has homes in good condition with a balance of homes in excellent and poor condition. Commercial services are separate. Roads and parks are in good condition but may need cleaning or maintenance. Other public services are perceived to be acceptable but not exceptional. An undesirable neighborhood generally has homes in poor condition. Commercial units may be intermingled with residential units. Roads are often crowded and/or poorly maintained and have litter. There are few parks and those are also poorly maintained. Other public services are believed to be marginal; and crime rate is perceived to be high.
Heating fuel.*	Primary heating fuel (*e.g.,* electricity, natural gas, propane, fuel oil, wood, other).
Central air conditioning.*	Yes/no. Central air is a ducted system designed to cool all or essentially all of a house or apartment.
Multi-room air conditioning*	Yes/no. If yes and if available, report number of multi-room units. Multi-room air conditioning is a non-window unit designed to cool more than one room but not all of a house or apartment.
Window air conditioning*	Yes/no. If yes and if available, report number of window-type air conditioning units.
Exterior construction*	Exterior construction materials (*e.g.,* brick, stone, cement, block, wood, metal, or vinyl siding).
Garage*	Triple (or more), double, single, non. Heated: Yes/no.
Carport*	Yes/no.
Reserved parking	Yes/no.
Security*	Gated community, guard, alarm system, none.
Type of unit*	Type of unit.
End Unit Townhouse*	Yes/No (two attached single family homes would be answered as No).
Lot size*	Approximate square footage (detached single family units only).
Furnishings provided by landlord*	Yes/no.
Appliances provided by landlord*	Yes/no. If yes and information is available, report if refrigerator, range, oven, dishwasher, clothes washer, clothes dryer, and/or freezer provided.
Services paid by landlord*	Water, sewer (includes septic), garbage collection, lawn care, cable television, satellite dish, electricity, heating fuel, firewood, snow removal.
Water source	Public, well, cistern, none.
Sewer	Public, septic, none.
Fireplace	Yes/no.
Paved road*	Yes/no.
Sidewalks	Yes/no.
Streetlights*	Yes/no.
Complementary recreation facilities*	Yes/no. If yes, note complementary (*i.e.,* free) swimming pools, club houses, tennis courts, or other significant recreational facilities available.
Pets	Yes/no. Yes, if dogs, cats, or both allowed; else no.
Exceptional view*	Yes/no. A view of a park, ocean, mountain, valley, golf course, *etc.,* that is unusually beautiful for the area and may increase the rental value of the property. [**Note:** Properties with direct access to such an amenity are not comparable and must not be surveyed.]
Vacant	Yes/no. If vacant and if known, report how unit long has been on market.
Rent*	Rental or lease amount per month.
Date of listing*	Date associated with rental rate reported above.
Other fees and charges.*	Additional periodic fees or charges that the tenant pays, *e.g.,* parking fees, condo fees, pet fees. Do not include deposits, first/last month's rent, utilities, tenant's insurance, or discretionary fees (*e.g.,* cable TV, community pool membership).
Comment	Additional information that helps clarify above data elements as they apply to the comparable.

*Required.

BILLING CODE 6325-39-M

APPENDIX 5
UTILITY USAGE AND CALCULATIONS

Table A5-1 Anchorage

	Electric Heat		Gas Heat				
	KHW	Cost	Therms	Cost	KWH[1]	Cost	Total Cost
Jan	6,535	$593.29	245	$105.31	467	$50.18	$155.49
Feb	5,645	$514.30	211	$302.77	419	$45.65	$348.42
Mar	5,894	$536.40	220	$535.99	457	$49.23	$585.22
Apr	5,334	$476.15	199	$684.69	436	$46.39	$731.08
May	4,957	$443.44	184	$79.33	442	$46.95	$126.28
Jun	3,441	$338.58	125	$55.24	406	$46.85	$102.10
Jul	2,166	$214.67	76	$35.24	401	$45.69	$80.93
Aug	4,022	$391.71	148	$64.63	425	$48.56	$113.19
Sep	5,099	$492.95	190	$81.78	430	$49.06	$130.84
Oct	5,778	$534.53	216	$92.40	457	$49.96	$142.36
Nov	6,099	$563.15	228	$97.30	446	$48.88	$146.18
Dec	6,205	$572.70	233	$99.34	456	$49.84	$149.18
Totals	61,175		2,275		5,242		
Annual Cost		$5,671.88		$2,234.03		$577.25	$2,811.27
Relative Usage		12.44%					87.56%
Weighted Average Cost		$705.58					$2,461.55
Total Energy Utility Cost							$3,167.13

Table A5-2 Fairbanks

	Electric Heat		Oil Heat				
	KHW	Cost	Gallons	Cost	KWH[1]	Cost	Total Cost
Jan	8,563	$740.45	288	$305.90	1,211	$117.81	$423.71
Feb	7,437	$645.09	253	$263.34	1,079	$106.63	$369.97
Mar	7,723	$667.69	268	$271.32	1,174	$114.43	$385.75
Apr	6,743	$584.90	242	$232.75	1,122	$110.04	$342.79
May	4,922	$431.06	200	$158.27	1,123	$110.12	$268.39
Jun	1,856	$172.04	124	$35.91	1,004	$100.07	$135.98
Jul	1,835	$166.12	126	$31.92	1,053	$101.84	$133.76
Aug	4,465	$382.30	190	$139.65	1,094	$105.21	$244.86
Sep	6,431	$558.09	234	$220.78	1,112	$109.11	$329.89
Oct	7,343	$635.07	258	$255.36	1,183	$115.11	$370.47
Nov	7,776	$671.62	266	$275.31	1,144	$111.82	$387.13
Dec	8,375	$724.53	284	$299.25	1,168	$114.17	$413.42
Totals	73,469		2,733		13,467		
Annual Cost		$6,378.96		$2,489.76		$1,316.36	$3,806.12
Relative Usage		9.09%					90.91%
Weighted Average Cost		$579.85					$3,460.14
Total Energy Utility Cost (Sum the weighted average cost of Electric Heat + Oil Heat)							$ 4,039.99

Table A5-3 Juneau

	Electric Heat		Oil Heat				
	KHW	Cost	Gallons	Cost	KWH[1]	Cost	Total Cost
Jan	5,190	$508.20	128	$192.19	1,149	$119.46	$311.65
Feb	4,516	$443.36	111	$166.67	1,024	$107.43	$274.10
Mar	4,840	$474.53	118	$177.18	1,119	$116.57	$293.75
Apr	4,418	$433.93	106	$159.16	1,076	$112.44	$271.59
May	4,064	$399.88	94	$141.14	1,106	$115.32	$256.46
Jun	3.247	$265.37	70	$105.11	1,031	$90.35	$195.46
Jul	3,373	$275.32	73	$109.61	1,083	$94.46	$204.07
Aug	3,700	$301.15	83	$124.62	1,073	$93.67	$218.29
Sep	4,287	$347.51	102	$153.15	1,069	$93.35	$246.51
Oct	4,698	$379.97	113	$169.67	1,132	$98.33	$268.00
Nov	4,074	$461.44	115	$172.67	1,085	$113.30	$285.97
Dec	5.026	$492.42	124	$186.19	1,105	$115.22	$301.41
Totals	52,063		1,237		13,052		
Annual Cost		$4,783.07		$1,857.36		$1,269.91	$3,127.26
Relative Usage		24.04%					75.96%
Weighted Average Cost		$1,149.85					$2,375.47
Total Energy Utility Cost (Sum the weighted average cost of Electric Heat + Oil Heat)							$3,525.32

Table A5-4 Washington, DC, Area

	Electric Heat		Gas Heat				
	KHW	Cost	Therms	Cost	KWH[1]	Cost	Total Cost
Jan	3,326	$230.36	126	$129.31	362	$28.94	$158.26
Feb	2,688	$187.92	101	$110.82	320	$26.16	$136.98
Mar	1,812	$129.64	68	$104.04	322	$26.30	$130.34
Apr	656	$51.25	34	$50.97	316	$25.90	$76.87
May	1,170	$86.93	34	$48.50	544	$42.59	$91.09
Jun	1,377	$135.32	32	$43.10	784	$74.57	$117.67
Jul	1,648	$160.36	34	$44.11	1,022	$97.22	$141.33
Aug	1,566	$151.98	33	$43.11	957	$90.60	$133.71
Sep	1,246	$119.73	32	$40.51	653	$60.44	$100.96
Oct	975	$90.75	35	$40.77	315	$29.15	$69.92
Nov	1,797	$128.64	67	$77.23	311	$25.57	$102.80
Dec	2,797	$193.49	106	$109.26	344	$26.08	$135.34
Totals	21,058		702		6,250		
Annual Cost		$1,666.38		$841.73		$553.52	$1,395.26
Relative Usage		33.20%					60.74%
Weighted Average Cost		$553.24					$847.48

Table A5-4 Washington, DC, Area (Continued)				
Oil Heat				
Gallons	Cost	KWH[1]	Cost	Total Cost
72	$95.75	1,007	$76.09	$171.83
56	$74.47	891	$68.37	$142.84
27	$35.90	938	$71.50	$107.40
2	$2.66	909	$69.57	$72.23
-	$0.00	1,166	$86.66	$86.66
-	$0.00	1,369	$134.50	$134.50
-	$0.00	1,636	$159.15	$159.15
-	$0.00	1,555	$150.87	$150.87
-	$0.00	1,241	$119.22	$119.22
1	$1.33	941	$87.65	$88.98
28	$37.23	911	$69.70	$106.93
58	$77.13	952	$70.75	$147.88
244		13,516		
Annual Cost	$324.47		$1,164.03	$1,488.50
Relative Usage				6.06%
Weighted Average Cost				$90.20
Total Energy Utility Cost (Sum the weighted average cost of Electric + Gas + Oil Heat)				$1,490.92

[1]KWH required for lighting, appliances, and furnace.

APPENDIX 6
HEDONIC RENTAL DATA EQUATIONS AND RESULTS

```
Data TempFile;
set opm.ak_and_dc_rental_data_2003;

if sqfootage>0; if unittype ne 'H'; if fullbaths lt 11; age=2003-yrbuilt;lrent=log(rent);
if compzip ne '20007';if survey_area='DC' then survey_area='WA';
if (unittype in ('A','B','C','D')) then unit='house';
if (unittype in ('E','F','G')) then unit='apart';
if (unittype = 'G') then unit='highr';

baths=0;outside=0;apartxsqspace=0;housexsqspace=0;outsidespace=0;
highrisexsqspace=0;bal_deck_patio=0;Anchorage=0; Fairbanks=0;washdc=0;
Juneau=0; ExtConAvg=0; ExtConGood=0;extconpoor=0;Neighbrhd=0;Parkingsp=0;
allowPets=0;hasfireplace=0;heatgarage=0;AgexHouse=0;AgexNonhouse=0;
SqftxApartment=0; SqftxHighrise=0;SqftxHouse=0;BathxApartment=0;
BathxHighRise=0; BathxHouse=0;Apartment=0;House=0;Highrise=0;
Unfurnished=0;apartxsqspace=0;age=2003-yrbuilt;

if hgarage='Y' then heatgarage=1;
if ((deck in  ('A','B')) or (patio in ('A','B'))or (balcony in ('A','B')))
  then outsidespace=1;
baths=baths+fullbaths+halfbaths*.5+threeqtrbaths*.75;
if (garage in ('A','B','C') or carport='Y' or respark='Y') then parkingsp=1;
if survey_area='AN' then Anchorage=1;if survey_area='FA' then Fairbanks=1;
if survey_area='JU' then Juneau=1;

/* if survey_area='WA' then Wash,DC=1 ---Omitting this makes DC the base area';

if extrcond='A' then ExtConGood=1;
if extrcond='B' then ExtConAvg=1;

/* if extrcond='C' then poor=1; --- Omitting this makes Poor the base condition*/

if unit='apart' then Apartment=1;
if unit='highr' then HighRise=1;

/* if unit='HOUSE' then house=1; --- Omitting this makes House THE base type unit*/

if pets=='Y' then AllowPets=1;
if hgarage='Y' then heatgarage=1;
if neighcond='A' then neighbrhd=1;
if fireplace='Y' then hasfireplace=1;
```

```
if unit='apart' then SqftxApartment=sqfootage;
if unit='highr' then SqftxHighRise=sqfootage;
if unit='house' then SqftxHouse=sqfootage;
if unit='apart' then BathxApartment=baths;
if unit='highr' then BathxHighRise=baths;
if unit='house' then BathxHouse=baths;
if unit='apart' then apartxsqspace=sqfootage*sqfootage;

PROC REG DATA=TempFile;
      MODEL lrent = SqftxHouse SqftxApartment SqftxHighRise BathxHouse
      BathxApartment BathxHighRise bedrooms apartxsqspace age neighbrhd extcongood
      extconavg allowpets heatgarage hasfireplace outsidespace parkingsp apartment highrise
      Anchorage Fairbanks Juneau;
TITLE '2003 Alaskan Rental Data -- Federal Register Model';
run;
```

2003 Alaskan Rental Data -- Federal Register Model
07:13 Monday, November 24, 2003

The REG Procedure
Model: MODEL1
Dependent Variable: lrent

Analysis of Variance

Source	DF	Sum of Squares	Mean Square	F Value	Pr > F
Model	22	207.87993	9.44909	280.23	<.0001
Error	1743	58.77183	0.03372		
Corrected Total	1765	266.65176			

Root MSE	0.18363	R-Square	0.7796
Dependent Mean	7.06981	Adj R-Sq	0.7768
Coeff Var	2.59734		

Parameter Estimates

Variable	DF	Parameter Estimate	Standard Error	t Value	Pr > |t|
Intercept	1	6.31683	0.05498	114.90	<.0001
SqftxHouse	1	0.00011876	0.00001713	6.93	<.0001
SqftxApartment	1	0.00110	0.00024420	4.49	<.0001
SqftxHighrise	1	0.00019304	0.00006351	3.04	0.0024
BathxHouse	1	0.10247	0.01122	9.13	<.0001

BathxApartment	1	0.10545	0.02189	4.82	<.0001
BathxHighRise	1	0.19355	0.03110	6.22	<.0001
bedrooms	1	0.08267	0.00869	9.51	<.0001
apartxsqspace	1	-3.78831E-7	1.246112E-7	-3.04	0.0024
age	1	0.00195	0.00028464	6.84	<.0001
Neighbrhd	1	0.24352	0.04442	5.48	<.0001
ExtConGood	1	0.31296	0.05317	5.89	<.0001
ExtConAvg	1	0.22717	0.04840	4.69	<.0001
allowPets	1	0.04251	0.00938	4.53	<.0001
heatgarage	1	0.05658	0.02256	2.51	0.0122
hasfireplace	1	0.09876	0.01128	8.75	<.0001
outsidespace	1	0.03449	0.00943	3.66	0.0003
Parkingsp	1	0.07521	0.01072	7.01	<.0001
Apartment	1	-0.72498	0.11808	-6.14	<.0001
Highrise	1	-0.20439	0.05367	-3.81	0.0001
Anchorage	1	-0.15682	0.01336	-11.74	<.0001
Fairbanks	1	-0.24535	0.01531	-16.02	<.0001
Juneau	1	-0.08304	0.01903	-4.36	<.0001

APPENDIX 7
FINAL LIVING-COST RESULTS FOR ANCHORAGE, FAIRBANKS, AND JUNEAU, AK

Anchorage 2003					
Major Expenditure Group (MEG)	Primary Expenditure Group (PEG)	MEG Weight	PEG Weight	PEG Index	MEG Index
1. Food		12.26%			114.58
	Cereals and bakery products	0.93%	7.60%	117.91	
	Meats, poultry, fish, and eggs	1.40%	11.40%	108.37	
	Dairy products	0.64%	5.24%	127.58	
	Fruits and vegetables	0.71%	5.79%	169.90	
	Processed foods	1.48%	12.04%	113.79	
	Other food at home	0.37%	3.05%	115.41	
	Nonalcoholic beverages	0.47%	3.85%	142.08	
	Food away from home	5.40%	44.02%	104.21	
	Alcoholic beverages	0.86%	7.01%	116.68	
	PEG Total		100.00%		
2. Shelter and Utilities		33.38%			99.00
	Shelter	29.66%	88.85%	86.93	
	Energy utilities	3.04%	9.11%	212.43	
	Water and other public services	0.68%	2.04%	118.15	
	PEG Total		100.00%		
3. Household Furnishings and Supplies		6.05%			105.32
	Household operations	1.52%	25.20%	102.92	
	Housekeeping supplies	1.05%	17.31%	103.97	
	Textiles and area rugs	0.29%	4.76%	102.25	
	Furniture	1.15%	18.94%	104.57	
	Major appliances	0.38%	6.24%	110.38	
	Small appliances, misc. housewares	0.20%	3.24%	114.16	
	Misc. household equipment	1.47%	24.30%	107.47	
	PEG Total		100.00%		
4. Apparel and Services		3.99%			109.63
	Men and boys	0.90%	22.43%	118.23	
	Women and girls	1.58%	39.55%	112.12	
	Children under 2	0.18%	4.60%	90.70	
	Footwear	0.67%	16.75%	98.83	
	Other apparel products and services	0.67%	16.68%	108.24	
	PEG Total		100.00%		
5. Transportation		16.31%			112.29
	Motor vehicle costs	8.56%	52.47%	102.15	
	Gasoline and motor oil	2.86%	17.56%	107.36	

Anchorage 2003					
Major Expenditure Group (MEG)	Primary Expenditure Group (PEG)	MEG Weight	PEG Weight	PEG Index	MEG Index
	Maintenance and repairs	1.68%	10.31%	101.97	
	Vehicle insurance	1.78%	10.91%	135.96	
	Public transportation	1.43%	8.75%	165.59	
	PEG Total		100.00%		
6. Medical		4.74%			111.49
	Health insurance	2.27%	47.95%	113.65	
	Medical services	1.54%	32.53%	118.98	
	Drugs and medical supplies	0.92%	19.52%	93.72	
	PEG Total		100.00%		
7. Recreation		7.00%			97.64
	Fees and admissions	1.45%	20.77%	92.96	
	Television, radios, etc.	0.73%	10.36%	100.15	
	Pets, toys, and playground equipment	1.04%	14.84%	104.07	
	Other entertainment supplies, etc.	2.02%	28.81%	101.48	
	Personal care products	0.81%	11.62%	86.00	
	Personal care services	0.55%	7.90%	88.08	
	Reading	0.40%	5.70%	110.95	
	PEG Total		100.00%		
8. Education and Communication		4.04%			100.37
	Education	0.18%	4.42%	29.67	
	Communications	3.36%	83.29%	104.60	
	Computers and computer services	0.50%	12.29%	97.09	
	PEG Total		100.00%		
9. Miscellaneous		12.23%			108.78
	Tobacco products, etc.	0.46%	3.75%	108.17	
	Miscellaneous	1.82%	14.89%	156.88	
	Personal insurance and pensions	9.95%	81.36%	100.00	
	PEG Total		100.00%		
Overall Price Index	MEG Total	100.00%			105.63
Plus Adjustment Factor					7.00
Index Plus Adjustment Factor					112.63

Fairbanks 2003					
Major Expenditure Group (MEG)	Primary Expenditure Group (PEG)	MEG Weight	PEG Weight	PEG Index	MEG Index
1. Food		12.26%			116.25
	Cereals and bakery products	0.93%	7.60%	124.89	
	Meats, poultry, fish, and eggs	1.40%	11.40%	111.48	
	Dairy products	0.64%	5.24%	115.91	
	Fruits and vegetables	0.71%	5.79%	169.40	
	Processed foods	1.48%	12.04%	120.63	
	Other food at home	0.37%	3.05%	114.36	
	Nonalcoholic beverages	0.47%	3.85%	152.88	
	Food away from home	5.40%	44.02%	103.08	
	Alcoholic beverages	0.86%	7.01%	126.87	
	PEG Total		100.00%		
2. Shelter and Utilities		33.38%			98.93
	Shelter	29.66%	88.85%	79.97	
	Energy utilities	3.04%	9.11%	270.97	
	Water and other public services	0.68%	2.04%	155.96	
	PEG Total		100.00%		
3. Household Furnishings and Supplies		6.05%			109.56
	Household operations	1.52%	25.20%	99.74	
	Housekeeping supplies	1.05%	17.31%	115.45	
	Textiles and area rugs	0.29%	4.76%	103.65	
	Furniture	1.15%	18.94%	104.57	
	Major appliances	0.38%	6.24%	126.17	
	Small appliances, misc. housewares	0.20%	3.24%	125.61	
	Misc. household equipment	1.47%	24.30%	114.19	
	PEG Total		100.00%		
4. Apparel and Services		3.99%			106.64
	Men and boys	0.90%	22.43%	103.68	
	Women and girls	1.58%	39.55%	104.52	
	Children under 2	0.18%	4.60%	89.89	
	Footwear	0.67%	16.75%	93.82	
	Other apparel products and services	0.67%	16.68%	133.11	
	PEG Total		100.00%		
5. Transportation		16.31%			112.45
	Motor vehicle costs	8.56%	52.47%	101.25	
	Gasoline and motor oil	2.86%	17.56%	106.31	
	Maintenance and repairs	1.68%	10.31%	95.57	
	Vehicle insurance	1.78%	10.91%	130.80	
	Public transportation	1.43%	8.75%	188.94	

Fairbanks 2003					
Major Expenditure Group (MEG)	Primary Expenditure Group (PEG)	MEG Weight	PEG Weight	PEG Index	MEG Index
	PEG Total		100.00%		
6. Medical		4.74%			112.33
	Health insurance	2.27%	47.95%	111.83	
	Medical services	1.54%	32.53%	123.13	
	Drugs and medical supplies	0.92%	19.52%	95.56	
	PEG Total		100.00%		
7. Recreation		7.00%			97.66
	Fees and admissions	1.45%	20.77%	92.48	
	Television, radios, sound equipment	0.73%	10.36%	99.46	
	Pets, toys, and playground equipment	1.04%	14.84%	108.08	
	Other entertainment supplies, etc.	2.02%	28.81%	106.80	
	Personal care products	0.81%	11.62%	83.47	
	Personal care services	0.55%	7.90%	60.47	
	Reading	0.40%	5.70%	120.53	
	PEG Total		100.00%		
8. Education and Communication		4.04%			101.90
	Education	0.18%	4.42%	13.84	
	Communications	3.36%	83.29%	107.28	
	Computers and computer services	0.50%	12.29%	97.09	
	PEG Total		100.00%		
9. Miscellaneous		12.23%			110.23
	Tobacco products, etc.	0.46%	3.75%	107.12	
	Miscellaneous	1.82%	14.89%	166.88	
	Personal insurance and pensions	9.95%	81.36%	100.00	
	PEG Total		100.00%		
Overall Price Index	MEG Total	100.00%			106.26
Plus Adjustment Factor					9.00
Index Plus Adjustment Factor					115.26

Juneau 2003					
Major Expenditure Group (MEG)	Primary Expenditure Group (PEG)	MEG Weight	PEG Weight	PEG Index	MEG Index
1. Food		12.26%			121.13
	Cereals and bakery products	0.93%	7.60%	122.40	
	Meats, poultry, fish, and eggs	1.40%	11.40%	116.44	
	Dairy products	0.64%	5.24%	129.04	
	Fruits and vegetables	0.71%	5.79%	168.34	
	Processed foods	1.48%	12.04%	119.04	
	Other food at home	0.37%	3.05%	118.10	
	Nonalcoholic beverages	0.47%	3.85%	171.62	
	Food away from home	5.40%	44.02%	112.67	
	Alcoholic beverages	0.86%	7.01%	112.77	
	PEG Total		100.00%		
2. Shelter and Utilities		33.38%			106.79
	Shelter	29.66%	88.85%	93.35	
	Energy utilities	3.04%	9.11%	236.45	
	Water and other public services	0.68%	2.04%	112.61	
	PEG Total		100.00%		
3. Household Furnishings and Supplies		6.05%			111.16
	Household operations	1.52%	25.20%	104.07	
	Housekeeping supplies	1.05%	17.31%	118.21	
	Textiles and area rugs	0.29%	4.76%	108.66	
	Furniture	1.15%	18.94%	108.67	
	Major appliances	0.38%	6.24%	121.35	
	Small appliances, misc. housewares	0.20%	3.24%	104.19	
	Misc. household equipment	1.47%	24.30%	114.25	
	PEG Total		100.00%		
4. Apparel and Services		3.99%			105.13
	Men and boys	0.90%	22.43%	111.43	
	Women and girls	1.58%	39.55%	100.69	
	Children under 2	0.18%	4.60%	88.83	
	Footwear	0.67%	16.75%	106.39	
	Other apparel products and services	0.67%	16.68%	110.38	
	PEG Total		100.00%		
5. Transportation		16.31%			107.00
	Motor vehicle costs	8.56%	52.47%	98.13	
	Gasoline and motor oil	2.86%	17.56%	115.15	
	Maintenance and repairs	1.68%	10.31%	99.87	
	Vehicle insurance	1.78%	10.91%	92.71	
	Public transportation	1.43%	8.75%	170.09	

Juneau 2003					
Major Expenditure Group (MEG)	Primary Expenditure Group (PEG)	MEG Weight	PEG Weight	PEG Index	MEG Index
	PEG Total		100.00%		
6. Medical		4.74%			113.16
	Health insurance	2.27%	47.95%	111.91	
	Medical services	1.54%	32.53%	123.47	
	Drugs and medical supplies	0.92%	19.52%	99.06	
	PEG Total		100.00%		
7. Recreation		7.00%			109.42
	Fees and admissions	1.45%	20.77%	99.88	
	Television, radios, sound equipment	0.73%	10.36%	105.97	
	Pets, toys, and playground equipment	1.04%	14.84%	107.48	
	Other entertainment supplies, etc.	2.02%	28.81%	112.90	
	Personal care products	0.81%	11.62%	111.96	
	Personal care services	0.55%	7.90%	83.02	
	Reading	0.40%	5.70%	169.36	
	PEG Total		100.00%		
8. Education and Communication		4.04%			103.58
	Education	0.18%	4.42%	22.50	
	Communications	3.36%	83.29%	108.24	
	Computers and computer services	0.50%	12.29%	101.15	
	PEG Total		100.00%		
9. Miscellaneous		12.23%			108.45
	Tobacco products, etc.	0.46%	3.75%	119.60	
	Miscellaneous	1.82%	14.89%	151.80	
	Personal insurance and pensions	9.95%	81.36%	100.00	
	PEG Total		100.00%		
Overall Price Index	MEG Total	100.00%			109.34
Plus Adjustment Factor					9.00
Index Plus Adjustment Factor					118.34

APPENDIX 8
FINAL LIVING-COST RESULTS FOR THE REST OF THE STATE OF ALASKA

Rest of the State of Alaska 2003 (Based on Kodiak, AK)								
Anchorage Results						Kodiak, AK		
						Relative to Anchorage		Relative to DC
Major Expenditure Group (MEG)	Primary Expenditure Group (PEG)	MEG Weight	PEG Weight	PEG Index	MEG Index	PEG Index*	MEG Index*	MEG Index
1. Food		12.26%			114.58		145.69	166.94
	Cereals and bakery products	0.93%	7.60%	117.91				
	Meats, poultry, fish, and eggs	1.40%	11.40%	108.37				
	Dairy products	0.64%	5.24%	127.58				
	Fruits and vegetables	0.71%	5.79%	169.90				
	Processed foods	1.48%	12.04%	113.79				
	Other food at home	0.37%	3.05%	115.41				
	Nonalcoholic beverages	0.47%	3.85%	142.08				
	Food away from home	5.40%	44.02%	104.21				
	Alcoholic beverages	0.86%	7.01%	116.68				
	PEG Total		100.00%					
2. Shelter and Utilities		33.38%			99.00		105.04	103.99
	Shelter	29.66%	88.85%	86.93		105.67		
	Energy utilities	3.04%	9.11%	212.43		100.00		
	Water and other public services	0.68%	2.04%	118.15		100.00		
	PEG Total		100.00%					
3. Household Furnishings and Supplies		6.05%			105.32		134.18	141.32
	Household operations	1.52%	25.20%	102.92		100.00		
	Housekeeping supplies	1.05%	17.31%	103.97		145.69		
	Textiles and area rugs	0.29%	4.76%	102.25		145.69		

Rest of the State of Alaska 2003 (Based on Kodiak, AK)									
						Kodiak, AK			
Anchorage Results						Relative to Anchorage		Relative to DC	
	Furniture	1.15%	18.94%	104.57		145.69			
	Major appliances	0.38%	6.24%	110.38		145.69			
	Small appliances, misc. housewares	0.20%	3.24%	114.16		145.69			
	Misc. household equipment	1.47%	24.30%	107.47		145.69			
	PEG Total		100.00%						
4. Apparel and Services		3.99%			109.63		145.69		159.73
	Men and boys	0.90%	22.43%	118.23					
	Women and girls	1.58%	39.55%	112.12					
	Children under 2	0.18%	4.60%	90.70					
	Footwear	0.67%	16.75%	98.83					
	Other apparel products and services	0.67%	16.68%	108.24					
	PEG Total		100.00%						
5. Transportation		16.31%			112.29		125.94		141.42
	Motor vehicle costs	8.56%	52.47%	102.15		145.69			
	Gasoline and motor oil	2.86%	17.56%	107.36		111.19			
	Maintenance and repairs	1.68%	10.31%	101.97		100.00			
	Vehicle insurance	1.78%	10.91%	135.96		100.00			
	Public transportation	1.43%	8.75%	165.59		100.00			
	PEG Total		100.00%						
6. Medical		4.74%			111.49		108.92		121.44
	Health insurance	2.27%	47.95%	113.65		100.00			
	Medical services	1.54%	32.53%	118.98		100.00			
	Drugs and medical supplies	0.92%	19.52%	93.72		145.69			
	PEG Total		100.00%						
7. Recreation		7.00%			97.64		132.59		129.46
	Fees and admissions	1.45%	20.77%	92.96		100.00			

Rest of the State of Alaska 2003 (Based on Kodiak, AK)									
Anchorage Results						Kodiak, AK			
						Relative to Anchorage		Relative to DC	
	Television, radios, etc.	0.73%	10.36%	100.15		145.69			
	Pets, toys, and playground equipment	1.04%	14.84%	104.07		145.69			
	Other entertainment supplies, etc.	2.02%	28.81%	101.48		145.69			
	Personal care products	0.81%	11.62%	86.00		145.69			
	Personal care services	0.55%	7.90%	88.08		100.00			
	Reading	0.40%	5.70%	110.95		145.69			
	PEG Total		100.00%						
8. Education and Communication		4.04%			100.37		105.62		106.01
	Education	0.18%	4.42%	29.67		100.00			
	Communications	3.36%	83.29%	104.60		100.00			
	Computers and computer services	0.50%	12.29%	97.09		145.69			
	PEG Total		100.00%						
9. Miscellaneous		12.23%			108.78		101.71		110.64
	Tobacco products, etc.	0.46%	3.75%	108.17		145.69			
	Miscellaneous	1.82%	14.89%	156.88		100.00			
	Personal insurance and pensions	9.95%	81.36%	100.00		100.00			
	PEG Total		100.00%						
Overall Price Index	MEG Total	100.00%			105.63				125.80
Plus Adjustment Factor					7.00				9.00
Index Plus Adjustment Factor					112.63				134.80

*Except for rental data and indexes set at 100, all data area from the University of Alaska Fairbanks, March 2003.
Rental data are from Alaska Department of Labor and Workforce Development, 2002.
Indexes set to 100 assume costs in Kodiak are equal to those in Anchorage.

[FR Doc. 04-5428 Filed 3-12-04; 8:45 am]
BILLING CODE 6325-39-C

Federal Register

Friday,
March 12, 2004

Part VI

The President

Notice of March 10, 2004—Continuation of the National Emergency With Respect to Iran

Federal Register
Vol. 69, No. 49
Friday, March 12, 2004

Presidential Documents

Title 3—

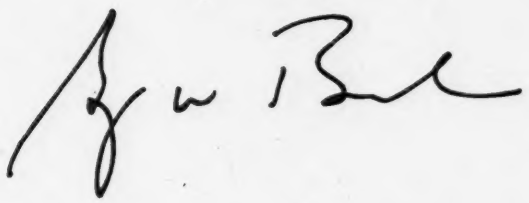
The President

Notice of March 10, 2004

Continuation of the National Emergency With Respect to Iran

On March 15, 1995, by Executive Order 12957, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine the Middle East peace process, and acquisition of weapons of mass destruction and the means to deliver them. On May 6, 1995, the President issued Executive Order 12959 imposing more comprehensive sanctions to further respond to this threat, and on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders.

Because the actions and policies of the Government of Iran continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2004. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran. Because the emergency declared by Executive Order 12957 constitutes an emergency separate fromthat declared on November 14, 1979, by Executive Order 12170, this renewal is distinct from the emergency renewal of November 2003. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
March 10, 2004.

[FR Doc. 04–5858
Filed 3–11–04; 10:37 am]
Billing code 3195–01–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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- New spark-ignition ononroad handheld engines at or below 19 kilowatts; Phase 2 emission standards, etc.; published 1-12-04

Air quality implementation plans; approval and promulgation; various States:
- California; published 1-12-04

Hazardous waste:
- Massachusetts; published 3-12-04

FEDERAL RESERVE SYSTEM

Fair and Accurate Credit Transactions Act; implementation
- Fair credit reporting provisions (Regulation V); published 2-11-04

FEDERAL TRADE COMMISSION

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- Drug and alcohol management information system reporting forms; conforming amendment; published 2-11-04

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LIST OF PUBLIC LAWS

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H.R. 743/P.L. 108–203

Social Security Protection Act of 2004 (Mar. 2, 2004; 118 Stat. 493)

S. 523/P.L. 108–204

Native American Technical Corrections Act of 2004 (Mar. 2, 2004; 118 Stat. 542)

Last List March 2, 2004

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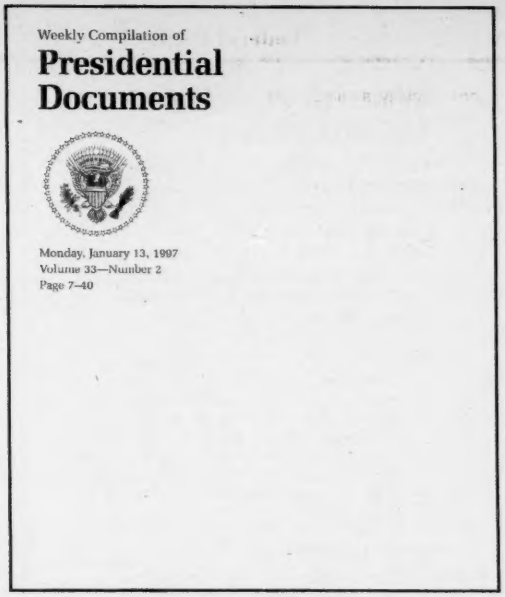

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